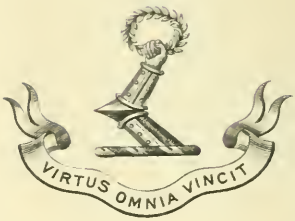

Cecil Dudley Driver.

Mrs. M'Lachlan.

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Mrs. Jessie M'Lachlan.

(*From the portrait published after the Trial.*)

Trial of

Mrs. M'Lachlan

EDITED BY

William Roughead

Writer to the Signet

GLASGOW AND EDINBURGH

WILLIAM HODGE & COMPANY

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1911

TO

ANDREW LANG

THIS ACCOUNT OF

THE SANDYFORD MYSTERY

IS

WITH HIS PERMISSION

DEDICATED

BY

THE EDITOR.

PREFATORY NOTE.

The present account of the trial of Mrs. Jessie M'Lachlan for murder in Glasgow, known as the Sandyford mystery, has been prepared from the following sources:—(1) The original record in the Books of Adjournal of the High Court of Justiciary; (2) "Copy of the Proceedings at the Trial of Jessie M'Intosh or M'Lachlan for Murder and Robbery at Glasgow in September, 1862, and of the Evidence taken at the subsequent Inquiry before Mr. Young, ordered by the House of Commons to be printed, 19th May, 1863," which is the official report; and (3) the reports in the contemporary newspaper Press.

The text of the evidence at the trial contained in the Parliamentary papers is plainly an unrevised reprint of the separate report published in pamphlet form at the time (Glasgow: J. H. Hastings, 1862), which, in turn, was reprinted from the columns of the *Morning Journal*. As, upon examination, numerous inaccuracies, common to each, were found, ranging from inconsiderable *errata* to the omission of one witness, that evidence has been collated with the very full and excellent report in the *North British Daily Mail* (18th to 20th September, 1862). The additional evidence taken by the Crown Commissioner, which appears to be correctly reported, has been reprinted from the Parliamentary papers.

The official report of the trial does not include either the addresses of counsel or the judge's charge. These are here supplied from a careful and somewhat laborious collation thereof as reported in the *Scotsman*, the *Glasgow Herald*, the *Morning Journal*, and the *North British Daily Mail* (20th and 22nd September, 1862), it is hoped with satisfactory results.

PREFATORY NOTE.

Mrs. M'Lachlan's statement is printed from the original document signed by her and read by Mr. Clark at the trial, preserved in the Justiciary Office, Edinburgh, the versions previously published being far from immaculate.

The history of the case, as narrated in the Introduction, is chiefly based upon the chronicles of the local Press for the years 1862 and 1863. No account has hitherto been available of the extraordinary events ensuing upon the trial, which are of sufficient interest and importance to warrant the detailed relation now given.

All the portraits reproduced in the present volume are contemporary, and the plans of the *locus* are facsimiles of those prepared for the trial. W. R.

8 Oxford Terrace, Edinburgh,
February, 1911.

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MRS. M'LACHLAN.

INTRODUCTION.

Midway in a walk westward along Sauchiehall Street, an artery of traffic in the commercial capital of Scotland, the curious in matters criminal will call to mind that about his path, and within an inextensive radius, were formerly committed four great crimes. In the street itself is the dwelling-house, adapted to mercantile uses, where the victims of Dr. Pritchard met their cruel fate. On the one hand, though now in the sober occupancy of an insurance company, stands, in Blythswood Square, the mansion which sheltered the dark and passionate secrets of Madeleine Smith; on the other, the house in Queen's Terrace, but recently the scene of Miss Gilchrist's tragic end. Further west, in a backwater of the busy fairway, respectable, and a favourite habitat of physicians, Sandyford Place has given its name to a mystery still more perplexing and, once, more notorious than these.

How did Jessie M'Pherson meet her death? Nobody knew for certain at the time, now, probably, nobody cares. Yet the question was, in its day, a burning one, which, like that later problem, the identity of "The Claimant," disturbed the peace of families and agitated a generation. The crime itself—a sorry and sordid business enough—apart from the complexity of its circumstances and its remarkable results, would speedily have passed from the memory of men. The murder of a servant girl in the house of a middle-class Glasgow family might well have aroused but a temporary and local interest. Was the dead woman silenced by a wicked old master to avert her threatened disclosure of his misdeeds, or did she fall an unsuspecting prey to the treachery and greed of her familiar friend? Such was the puzzle that, once upon a time, set the people of Scotland by the ears, and even occupied the grave attention of Parliament itself. The former was the more popular opinion; at the trial judge and jury unanimously took the latter view. The oracles of the Fourth Estate spoke with divergent voices. Each faction had its leading organ—the

"M'Lachlanites," as they were termed, being loudly championed by the *Morning Journal*, while the *Glasgow Herald* vigorously upbore the flag of the "Flemingites." The names of the rival parties might, to the uninitiated, suggest some new variety of Scots dissent. The battle, raging for over a year, was no sham fight; shrewd blows were given and received without respect of persons. The issue inclined to favour the forces of the doomed woman; a respite, an extrajudicial inquiry, a conditional pardon, and two lengthy Parliamentary debates left them the nominal victors. The dust of controversy, however, rendered only more obscure the cloud of mystery by which the subject was encompassed. One living person, or perhaps two, could dissipate that darkness—the prisoner and old Fleming. The first declared much, and proportionally lied; yet, was her famous "Statement" wholly false? The other told once, in the witness-box, a story possibly true, though, *pace* the *Herald* and the learned judge, unsatisfactory and strangely improbable. Where, if with either, lay the truth? Let those who, as Mr. Andrew Lang has somewhere said, "like legal mysteries and the arts of the literary detective" decide.

For such as care for none of these things, this trial, apart from its interest as a problem in the law of evidence, is suggestive of reflections upon the administration of our system of criminal investigation and the means which our criminal code has provided for obtaining redress in the event of a possible miscarriage of justice. The special defence lodged for the prisoner, that the murder with which she stood charged was, in fact, committed by the chief witness for the Crown, is as dramatic as it is unusual. The elaborate "Statement," purporting to be that of an eye-witness to the deed, read by counsel at her request after the verdict had been returned—probably the most remarkable document ever read in a Court of justice—and the strong opinion of its utter falsity expressed extempore by the judge in passing sentence, are equally noteworthy; while the subsequent inquiry into the matter, involving the examination of new witnesses before a member of the bar as Commissioner appointed by the Government to that end, is unique in the criminal practice of Scotland. For these, if for no other reasons, it would seem desirable that some record of a case so singular should be included in the present series.

Introduction.

In the year 1862 there lived at No. 17 Sandyford Place, Glasgow, the family of Mr. John Fleming, a reputable accountant of that city. In addition to his town house, Mr. Fleming, like many of his well-to-do fellow-citizens, had a country residence on the Clyde coast, Avondale Lodge, situated between Innellan and Dunoon. Thither in the summer months his domestic establishment, consisting of his sister, two daughters, and the servants, removed. During the week it was the habit of Mr. Fleming and his son John, a lad of twenty, to attend their office in St. Vincent Street, sleeping in Sandyford Place and going down to Dunoon for the week-ends, at which periods the sole occupants of the Glasgow house were his father, James Fleming, an old man, said to be eighty-seven years of age, and one of the servants, Jessie M'Pherson, who was left in charge of the premises. The latter had been for some years in Mr. Fleming's service, and enjoyed his entire confidence.

At ten o'clock on the morning of Friday, 4th July, Mr. Fleming and his son went to business as usual, leaving the old man and the servant alone in the house, and proceeded to Dunoon in the afternoon without returning home. They came back to Glasgow on Monday, the 7th, going straight to the office on their arrival. At four o'clock that day young Fleming went home. The door was opened by his grandfather, and the lad naturally asked where was the servant? "She's away, she's cut," said the old man; "I have not seen her since Friday, and her door's locked." Young Fleming at once inquired if he had never thought she might be dead, to which the old gentleman rejoined, "Dead or not dead, she's away." Mr. Fleming, arriving at the moment, was informed by his son of what had passed, the latter adding, "She may be lying dead in her room for anything he [the old man] knows." The house is one of three storeys: basement, street floor, and flat above; and is peculiar in respect that the sunk front area, 6½ feet in depth, surmounted by a railing 3 feet 9 inches high, is not accessible either by steps from the street or by door from the house, but solely by a wicket in the stanchions of the pantry window opening thereon beneath the area bridge. Mr. Fleming, accompanied by his father and son, went downstairs to the kitchen. Finding that the door of the servant's bedroom was locked, his first thought was to get out into the area by the wicket so as to

look through the bedroom window; his second was to try the key of the pantry door which adjoined that of the bedroom. It opened the lock, and they entered the room. The blinds were drawn, and one half of the shutters was closed. Upon her face, on the floor beside the bed, lay the dead body of the servant, almost naked, the upper part alone being covered by some dark cloth. Father and son were struck with consternation, and the grandfather, holding up his hands, exclaimed, "She's been lying there all this time, and me in the house!"[1] They then went upstairs together, and Mr. Fleming, rushing out for assistance, got Dr. Watson, with whom he returned to the house.

On their way Mr. Fleming told Dr. Watson that, when he unlocked the bedroom door with the pantry key, there was already a key in the lock inside, which he struck out, and which fell within the room. The doctor examined the body, and found various wounds—over forty in number, as afterwards appeared—upon the head, face, neck, and wrists, and also "one remarkable bruise" upon the lower part of the back. "This is evidently not a suicide," said Dr. Watson to Mr. Fleming; "you had better call in the police." This was accordingly done, and Constable Cameron and Dr. Joseph Fleming, surgeon of police, arrived on the scene about half-past four o'clock. To Cameron Mr. Fleming repeated his statement as to seeing a key in the lock, pushing it out with the pantry key, and hearing it fall inside the room. He also mentioned the fact to Mrs. Walker, a neighbour, who came to the house about five o'clock. Cameron looked for the key, but failed to find it. Yet at the trial, when cross-examined upon this point by Mr. Clark, Mr. Fleming not only denied that there was any key in the lock at all, but that he had ever said so to the witnesses.

Drs. Watson and Fleming then examined the condition of the basement flat. In the kitchen, where a fire was burning, they saw blood stains on the jawbox (*Anglice*, sink), and also upon the back of the kitchen door and the doorpost, four or five feet above the floor. The mat in the doorway was bloody, and adhered to the floor. In the lobby they observed a trail of blood, as if caused by the dragging of a body, extending from

1 Disbelievers in the innocence of old Fleming will be reminded of Lady Macbeth's similar exclamation—"What, in our house!"

No. 17 Sandyford Place, Glasgow.

(The two windows in the area are those of Jessie M'Pherson's bedroom.)

the kitchen to the bedroom, where the dead woman lay. These stains were obvious and unequivocal; further traces of blood were subsequently found in various other parts of the lower flat. These, and the condition of the bedroom, which afforded ample evidence of the tragedy, we shall afterwards consider. The doctors next made a remarkable discovery. The floors of the kitchen and bedroom and the stone flags of the lobby had been partially washed, as also had the face, neck, and chest of the corpse. "The lobby," said Dr. Fleming at the trial, "was perfectly moist; it was very damp, as if it had been recently washed. The kitchen [floor] was drier, but still there was a damp appearance. They had the appearance of not having been done on the same day." When Superintendent M'Call, with two detectives, examined the premises at ten o'clock that night the floor, though appearing to have been recently washed, was then dry. In the course of their investigations these officers found, in a drawer of the kitchen dresser, an iron cleaver, of which they took possession. In the bedroom they noticed the servant's box, open and almost empty, its contents in confusion, "as if some bloody hand had been working among them"—the dead woman's best clothes had disappeared. On the bedroom floor, outside that portion which had been washed, were seen three bloody imprints of a naked foot. There were also discovered in a chest of drawers in which the old man kept his clothes in a room on the sunk flat two shirts, newly dressed, spotted with blood.

In answer to questions by Mr. M'Call, old Fleming stated that he had been wakened [at four o'clock on the Saturday morning] by screams, which at the time he attributed to "loose characters" who were in the habit of frequenting the vacant ground at the back of the house, and that he did not then get out of bed, but raised himself on his elbow and looked at his watch.[1] What further account of how he had spent that momentous week-end old Fleming at this time gave to the police we do not know—we shall see in the sequel what was his story in the witness-box; but that his explanation failed to

1 These facts were elicited by Mr. Clark in his cross-examination of Superintendent M'Call at the trial. Lord Deas, however, held that it was incompetent to put questions "which might lead to the contradiction of what had been said [by old Fleming] out of the box"; and Mr. Clark did not pursue the matter.

satisfy the authorities would appear from the fact that on Wednesday, 9th July, two days after the discovery, he was apprehended as being concerned in the murder. Sir Archibald Alison,[1] Sheriff of Lanarkshire, who ultimately became closely connected with the case, of which he later published an account, observes, "His [Fleming's] conduct after the murder had been extremely suspicious."[2] The evident grounds of suspicion against him at this stage were (1) that having heard screams in the night, and in the morning found the servant missing and her door locked, he raised no alarm and took no steps at all to ascertain what had become of her; (2) that he admitted noticing on the Saturday the blood stains on his shirts; (3) that for three days he lived alone in the house without making any inquiry whatever; (4) the condition of the kitchen in which he passed his time; and (5) the recent washing of the basement floors. The *Glasgow Herald* of 10th July, 1862, narrates the circumstances of his arrest as follows:—

> This horrid tragedy continues to be shrouded in mystery, and as the inquiry into the case progresses, the more unaccountable does the affair become. Yesterday afternoon Mr. M'Call, assistant superintendent of police, apprehended the old man Fleming, for examination concerning the murder of the unfortunate woman, Jessie M'Pherson. Fleming was brought before Sheriff Strathern, and, after an examination which lasted upwards of four hours, he was committed to prison for further inquiry.

It would be of the utmost importance to learn the result of this four hours' examination and to compare the declaration then emitted by old Fleming with his later evidence at the trial. In Scotland, however, the secrets of a criminal investigation conducted by the Procurator-fiscal (the official who collects evidence and reports to the Lord Advocate as Crown prosecutor) are, unfortunately, inviolable.

Meanwhile a fresh element had been introduced into the case. Late on the Monday night Mr. Fleming missed from the sideboard in the dining-room certain silver and plated articles, spoons, &c., which the servant had out for daily use. A silver teapot and stand and a silver cream jug remained safely in

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[1] Sir Archibald Alison, Baronet, D.C.L. (1792-1867), author of the *History of Europe*, and other works, was called to the bar in 1814; appointed Advocate-depute, 1823; and Sheriff of Lanarkshire, 1834, which office he held for thirty-three years. He was created a baronet in 1852.

[2] *Some Account of My Life and Writings: An Autobiography*, 1883, ii. 503.

the open sideboard. Upon it stood the bottles of the cruet, the plated frame of which was found under the table in the servant's room, near the body.

On Tuesday, the 8th, Dr. Fleming, accompanied by Dr. Macleod[1] (who had visited the house the night before), again inspected the *locus*, and made a post-mortem examination of the remains. The result of their investigations was embodied in a joint report (a copy whereof will be found in the report of the trial), in which the reporters drew the following conclusions:—

1. That this woman was murdered, and that with extreme ferocity.
2. That her death had taken place within three days.
3. That a severe struggle had taken place before death.
4. That such an instrument as a cleaver for cutting meat, or a similar weapon, was that most likely to have caused the fatal injuries found.
5. That the injuries had been inflicted before or immediately after death.
6. That all the wounds on the neck and head, with the exception of those on the nose and forehead, had apparently been inflicted by a person standing over the deceased as she lay on her face on the ground.
7. That the comparatively slight degree of strength shown in the blows would point to a female or a weak man having inflicted them; and

Lastly, that the body had been drawn by the head, with the face downwards, along the lobby from the kitchen to the front room.

By Dr. Macleod's advice that part of the flooring which contained the bloody footprints was cut out. The impressions, which were all of a left foot, were compared by him with the foot of the deceased, and also with that of old Fleming—the former was in every respect larger; the latter was perfectly different. In Dr. Macleod's opinion the footprints were those of a female. This, taken in connection with the discovery of marks of blood upon the perpendicular portions of the lower steps of the stair leading from the basement to the flat above, suggestive of having been made by the bloody skirts of some person ascending, led to the inference that a woman was concerned in the crime.

Full accounts of the murder and particulars of the missing plate and clothes were circulated in the form of official bills, and also published in all the Glasgow newspapers. These met

[1] George Husband Baird Macleod (1828-1892), brother of the Rev. Norman Macleod, D.D. He succeeded Professor (afterwards Lord) Lister in 1869 as Regius Professor of Surgery in Glasgow University, and was knighted in 1887.

the eye of Mr. Lundie, a pawnbroker in East Clyde Street, who had been out of town for the week-end; and on Wednesday, the 9th, the day of old Fleming's arrest, he communicated with the police. He produced the plate in question, and stated that it had been pledged in his shop for £6 15s. between twelve and one o'clock on Saturday, the 5th, by a young woman who gave her name and address as "Mary M'Donald, 5 St. Vincent Street," both of which on inquiry proved to be false. He had paid little attention to the woman at the time, and could give but an imperfect description of her appearance.

Public interest in the crime had been from the first intense, and those developments further stimulated the popular excitement. The *Herald* (Monday, 14th July) reports—

> During yesterday afternoon many thousands of people visited Sandyford Place to see the exterior of the house in which the crime was committed. The street was nearly blocked up by the crowd, and large numbers assembled on the vacant space of ground behind, with a similar intention. Along Elderslie Street and towards the west end of Sauchiehall Street there were more people in the street than during the going in or dismissal of the churches, and this state of matters continued for several hours.

The authorities had now to discover the woman who pawned the plate, and also to trace the clothes taken from the deceased's box. On Sunday, the 13th, Superintendent M'Call, acting upon "information received," from what source was not disclosed, went with four detectives to a house at No. 182 Broomielaw, and there apprehended a seafaring man, named James M'Lachlan, and Mrs. Jessie M'Intosh or M'Lachlan, his wife. Before their arrest the man had remarked to his wife, on reading in the newspapers the description of the wanted woman, "That's unco like you," to which she had significantly replied, "It's ower like me!" It is a curious fact that during the preceding week Mrs. M'Lachlan had been twice examined before the Procurator-fiscal with reference to the murder, but had denied all knowledge of the crime and of the missing plate. How the attention of the authorities was directed to her does not appear.[1]

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1 "The whole investigation was conducted by the Glasgow officials with so little integrity and openness, and so much of the dexterity and cunning of pettifoggery, that it is not at all improbable that Mrs. M'Lachlan was suspected almost as early as old Fleming, that she was twice examined by the Procurator-fiscal merely to entrap her, and that she was watched during the week she was at liberty."—*Law Magazine and Review*, 1863, vol. xiv., p. 73.

On the following day, Monday, the 14th, a week after the discovery of the murder, husband and wife were successively examined before Sheriff-Substitute Strathern and emitted declarations.[1] The manner in which these were taken, and the action of the Procurator-fiscal in apprehending James M'Lachlan, we shall have to consider in connection with the subsequent trial. The husband, who had been in Ireland with his ship at the time of the murder, and had, therefore, no connection with it, was liberated so soon as the Fiscal had secured his statement. The wife was under examination for four hours and a half, and a declaration was taken from her extending to twenty-four folio pages. In it Mrs. M'Lachlan, *inter alia*, declared—

I am a native of Inverness, twenty-eight years of age, wife of James M'Lachlan, second mate on board the steamship *Pladda*, and I reside at No. 182 Broomielaw, Glasgow. I knew Jessie M'Pherson, who was servant to Mr. Fleming, Sandyford Place, Sauchiehall Street. I was a fellow-servant of hers in Mr. Fleming's employment in his house at Sandyford Place, and at his coast house, near Dunoon, for two years prior to September, 1857. I left Mr. Fleming's service then and got married, and since then I have kept up an intimacy with her, except for a period of about eighteen months prior to January, 1861, during which time she was at service in Manchester. I last saw Jessie M'Pherson in my own house at the Broomielaw, on Saturday evening, the 28th June last.

She denied that she was in or near Mr. Fleming's house on the night of the murder, and stated that, having been in the company of a friend, Mrs. Fraser, she went home at a quarter-past eleven, letting herself in with a check-lock key, and that she remained in bed with her child, a boy of three years, till seven or eight o'clock on Saturday morning, when she went out for coals, and returning a quarter of an hour later, having forgotten the check key, was let in by her lodger, Mrs. Campbell. She admitted pawning the plate about twelve o'clock that day, and stated that it had been given to her in her own house by old Fleming at a quarter-past eight the previous evening, with instructions to pawn it in the name of "M'Donald," as "he was short of money, and had to go to

[1] Prior to 1887 a prisoner was not allowed the benefit of legal advice at this stage; but it is provided by the Criminal Procedure (Scotland) Act of that year (50 & 51 Vict. c. 35, § 17) that any person arrested on any criminal charge shall be entitled immediately to have professional assistance, and that the law agent shall be entitled to have a private interview with such prisoner before the latter is examined, and also to be present at such examination.

the Highlands, and did not like to lift money out of the bank"; that Fleming returned on the Saturday afternoon and offered her £5, out of the £6 15s. she had got on the plate, for her trouble, but that she only took £4; and that Fleming (not unnaturally) warned her to tell no one of this singular transaction. She then made explanations as to certain articles of dress which she had taken to be dyed; also regarding a visit she had paid to Hamilton on Tuesday, the 8th; and a black leather trunk, despatched thither by her on the previous Saturday, addressed "Mrs. Bain, Hamilton. To lie till called for," to all of which we shall later refer.

The statements made by Mrs. M'Lachlan in this and her two subsequent declarations were, in the main, false. It is sufficient here to remark that the authorities had seen Mrs. Campbell, and knew Mrs. M'Lachlan had been out of her house the whole night, and was let in by Mrs. Campbell herself at nine o'clock on the Saturday morning; that there was no check key for the house door; that she went out on the Friday night in her own gown, and returned next day wearing one which did not belong to her; that her own had since disappeared, and that the other (afterwards proved to have been Jessie M'Pherson's) had been sent by her to be dyed; that she had been tracked to Hamilton; and that the police guessed what were the contents of the black trunk, then empty and in their hands.

The conscience of her husband, in spite of the absolution which he had received at the hands of the Fiscal, remained uneasy, and on Wednesday, the 16th, he made a voluntary communication to the police, whereupon Superintendent M'Call went to Bridge Street railway station and obtained possession of a japanned tin box. On being opened it was found to contain the clothes taken from the dead woman's room. The history of the peregrinations of this tin box, as afterwards ascertained, is as follows:—On Wednesday, the 9th, five days after the murder had been committed, Mrs. M'Lachlan sent the box to Ayr, addressed "Mrs. Darnley, Ayr. To lie till called for." It was afterwards recovered by her husband, deposited by him with his sister at Greenock, and finally given up to the police. No sooner were these articles in the hands of the authorities than Mrs. M'Lachlan was again examined by the Procurator-fiscal, and a second declaration, extending to twelve folio pages, was taken from her. After answering some

further questions with reference to her visit to Hamilton, her own clothes, and a rum bottle found in the Sandyford Place house, said to have been taken by her from Mrs. Campbell's room on the night of the crime, she was questioned in detail regarding the missing clothes of the deceased, all of which as described to her she admitted knowing to have been Jessie M'Pherson's property; and, unaware of the workings of her husband's conscience, and believing that the tin box was safely out of the way, she naturally lied, "I have not seen any of these articles of dress lately, either in her possession or anywhere else." Then the ingenious Fiscal played his trump card by producing the box and clothes. The prisoner acknowledged that the box was hers, and stated that the clothes had been sent to her by the deceased on Friday, 4th July, to be altered and dyed; that finding them advertised for after the murder she got frightened, and sent them to Ayr; and that she afterwards explained the situation to her husband, and induced him to take them to his sister in Greenock.

That day, Wednesday, 16th July, Dr. Macleod conducted an experiment for the purpose of comparing the print made by the prisoner's foot with the footmarks left in the bedroom of the murdered woman, the result, but not the mode, of which he gave at the trial. The following account of the course of this experiment is taken from an article on the case published later by Dr. Macleod[1]:—

When Mrs. M'Lachlan was taken into custody it was thought most important that a very carefully made comparison should be instituted by a professional man between the impressions and her foot. This duty was assigned by the Sheriff to the author, who tried several experiments on his own foot, to test the accuracy of several agents to produce impressions on wood which could be comparable with that under consideration. Nothing was found which was not open to objection except blood; and so having obtained a small phial of bullock's blood, a thin coating of it was placed on waxcloth and the prisoner asked to put her left foot on it and then step on a plank of wood. The accused repeated this several times without the slightest objection—in fact, apparently courting the test. The early impressions were not suitable, as the plank of wood obtained had been oiled for some other purpose; but when the writer had as closely as possible imitated the conditions in which the original impressions had been made, *i.e.*, had placed the blood on one side of the room, a piece of carpet between, and then an old dry plank of wood (all these conditions having been observed at No. 17

1 "An Account of the Medical Evidence connected with the Trial of Jessie M'Lachlan at Glasgow Autumn Circuit, 1862. By George H. B. Macleod, M.D., F.R.C.S.E.," &c.—*Glasgow Medical Journal*, 1864, vol. xi., 50-61.

Sandyford Place, in the room where the impressions were found) on which to stand, two impressions were got which corresponded with a degree of accuracy which was quite marvellous with the marks taken from the house. In the minutest detail of measurement and outline did they tally with the original, and, in fact, each of them was, if possible, closer to the Sandyford footmark than they were to one another.

Thus the presence of the accused woman in the house when the deed was done was held to be conclusively established; and so by one means and another, partly fair, partly unfair, evidence was brought together which was considered sufficient to demonstrate that Mrs. M'Lachlan alone was guilty of the murder of Jessie M'Pherson; and after eight days' confinement the old man James Fleming was set at liberty.[1] On Friday, 18th July, the *Herald* had accordingly the pleasure to announce—

LIBERATION OF MR. FLEMING AND COMMITTAL OF THE PRISONER M'LACHLAN.

On Wednesday afternoon, as mentioned in yesterday's paper, Mr. Sheriff Strathern and Mr. Gemmel, joint Procurator-fiscal, proceeded to Edinburgh and held a consultation with the Solicitor-General and Mr. Gifford, Advocate-Depute, regarding this case. It was there resolved that old Mr. Fleming should be liberated, as there was no ground whatever why he should be longer detained in connection with this unhappy case—the evidence bearing, we assume, that he was entirely guiltless of any knowledge of or connection with the murder of Jessie M'Pherson. Mr. Fleming was accordingly set at liberty yesterday morning. It was also resolved at the consultation above referred to that Jessie M'Intosh or M'Lachlan should be fully committed on the charges of murder and theft.

Now, assuming that the account of his conduct given by old Fleming to the authorities was as unsatisfactory as that to which he subsequently swore at the trial, there can be little doubt, in the circumstances before described, that he laid himself open to the gravest suspicion of having been at least art and part, if not actor, in the crime; and that instead of being liberated for the purpose of testifying against his fellow-

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1 The *Spectator*, in an article upon the trial, with reference to the *prima facie* case against old Fleming and that against Mrs. M'Lachlan, observes—"Strange to say, the Glasgow authorities seem to have adopted at once, and with an almost personal bias, the latter, and to our minds, we will not say the least probable, but the most improbable of these two hypotheses. The fact of Mr. Fleming's innocence was assumed as an axiom, and the object of prosecution appeared to be not so much to prove that Jessie M'Lachlan was guilty of the murder as that Mr. Fleming had no concern with it whatever."

prisoner, and thus, by Scots law, rendered immune from future prosecution, he ought, in justice, to have been placed beside her in the dock. The *Herald* was almost alone in expressing approval of the action of the authorities in liberating Fleming.[1]

That same night (Thursday, 17th July) Superintendent M'Call received a telegram from the Hamilton police to the effect that portions of the skirt of a brown merino gown and of two petticoats, blood stained and torn in pieces, had been discovered in a field a mile and a half from that town. The Glasgow police then made a further search of the prisoner's house and took possession of the sleeve of a brown gown, which was afterwards found to be of similar material to that of the Hamilton skirt. The torn skirt and petticoats were later identified as the property of the prisoner.[2]

We shall now see what Mrs. M'Lachlan had been doing at Hamilton. On the afternoon of Saturday, 5th July, she sent by her servant, Sarah Adams, a black leather trunk to be forwarded by rail to Hamilton, addressed "Mrs. Bain," as already mentioned. On Tuesday, the 8th, she journeyed thither incognito, claimed the trunk (which she left empty behind her), and was seen carrying a conspicuous bundle near the spot where the torn clothes were afterwards found. In the course of an hour or two spent in the neighbourhood upon her secret errand she contrived to converse with nine persons, all of whom later identified her as the woman to whom they had spoken. The articles thus recovered having been sent to Glasgow, the prisoner, on 21st July, was again invited by the Procurator-fiscal to walk into his official parlour, where, being shown "13 pieces of flannel, as also 6 pieces of wincey cloth, as also 20 pieces or thereby of merino," she, in pursuance of her fatal policy of negation, denied that they belonged to her, and a declaration, extending on this occasion to a modest three folio pages only, was taken from her to that effect.

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1 "It is no small satisfaction to us, we must declare, that in spite of the strongest prejudice and gross perversion of facts, we struck in and took the side of the old innocent on Saturday last; and we believe we are the only paper in the city that did so without the least equivocation."—*Glasgow Herald*, 19th July, 1862.

2 It is to be observed that this sleeve, which formed part of the dress worn by Mrs. M'Lachlan on the night of the murder, was entirely free from blood. The skirt and petticoats, on the other hand, were soaked with blood in a manner difficult to account for except as explained by her own "Statement" aftermentioned.

On 1st August there were submitted to Professor Penny for examination the portions of skirt and petticoats above-mentioned—the chemise, worsted polka, and flannel semmet taken from the body of the deceased—the cleaver found in the kitchen, and the wires of a crinoline, which had been given by the prisoner to the witness Mary Black or Adams on Saturday, 5th July. The result of Professor Penny's examination of these articles was embodied in a report (a copy whereof will be found in the report of the trial), in which the reporter drew the following conclusions:—

1. That the stains and clots on the several articles of wearing apparel subjected to examination were caused by blood.
2. That the stains on the crinoline wires consisted of dried blood.
3. That the stains and clots on the handle of the cleaver were caused by blood.
4. That in no case was it possible to identify the blood as human blood.

The case against the prisoner being now complete, the indictment, charging her with the crimes of murder and theft, was accordingly served upon her on 30th August.[1] The trial was appointed to take place at the Glasgow Autumn Circuit, the sittings of which would commence in September. In view of the intense excitement which the mysterious features of the case had aroused in Glasgow it would manifestly have been in the interests of justice had the trial been removed beyond the influence of local prejudice to the calmer atmosphere of the High Court of Justiciary in Edinburgh.[2] The case, it is safe to say, had been daily discussed, and each scrap of news regarding it eagerly canvassed by every potential juryman in the city. To meet the demand for information the Glasgow Press anticipated the worst features of modern journalism. Reporters dogged the footsteps of the criminal officers and forestalled in print the results of their investigations; even the sacred operations of the Fiscal's *camera segreta* were not respected—witnesses who had been examined were waylaid,

1 With reference to the fact that the deceased is named in the indictment "Jessie M'Pherson, otherwise Jessie M'Pherson Richardson," it may be explained that her real surname was Richardson, she having taken the name of M'Pherson from the persons by whom she was brought up as a child.

2 Had this course been adopted, it may be noted that the trial would then have been presided over by three judges—probably the Lord Justice-Clerk (Inglis) and two of the Lords Commissioners of Justiciary.

and full reports of their evidence published with such comments as editorial bias suggested; some papers treated "the wretched woman" already as a convicted murderess, while shedding tears of ink over the unmerited sufferings of virtuous "Mr. Fleming"; others clamoured for his blood and canonised the prisoner. The daily news sheets rivalled one another in starting fresh theories of the crime, and advising the authorities how and how not to conduct the inquiry. One journal, being very certain that the rum bottle found in the house contained laudanum, insisted on an immediate analysis. A worse instance occurred with reference to certain superficial marks on the prisoner's hands, caused, as she explained and as the Crown doctors believed, by the bite of her own small dog. This paper, however, knew better—"they had been inflicted by Jessie M'Pherson in her death struggle." In such circumstances as these it is difficult to see how the prisoner was to obtain that impartial trial to which she was by law entitled. Sir Archibald Alison, in commenting on this state of matters, remarks—

> Such was the public anxiety for intelligence, that the newspapers for a month together were daily filled with these details, accompanied by the most violent declamations against the woman, as each successive article of evidence was revealed. To such a pitch did the public excitement on the subject rise, that the editors of some of the daily papers told my clerk, Mr. Young, that their circulation since the precognitions began to be published had risen from 10,000 to 50,000 a day; and that if they could only secure a Mrs. M'Lachlan a month they would soon be in a situation to retire from business with handsome fortunes! I myself was obliged, when the trial of the prisoner was fixed, to write a circular to the editors requesting them to abstain from any further notice of the case, as, if the incessant discussion went on, the prisoner could never have a fair trial.[1]

On Wednesday, 17th September, 1862, before the Honourable Lord Deas,[2] in the Old Court in Jail Square, Glasgow, the diet against Jessie M'Intosh or M'Lachlan was called at ten o'clock. As it is not the practice of the Lord Advocate or Solicitor-General personally to conduct criminal prosecutions on circuit, the Crown was represented by Mr. Adam Gifford, advocate-depute, assisted by Mr. Andrew Mure, advocate, Mr. Andrew Murray, W.S., acting as Crown agent. Messrs. Andrew

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[1] *Autobiography*, ii. 506-507.

[2] Sir George Deas, Lord Deas (1804-1887), was called to the bar in 1828; Sheriff of Ross and Cromarty, 1850; Solicitor-General, 1851; raised to the bench, 1853; knighted, 1858; and resigned, 1885.

Rutherfurd Clark, Robert Maclean, and Adam Bannatyne, advocates, appeared for the pannel, her agents being Messrs. Joseph A. Dixon, John Strachan, and W. M. Wilson, writers, Glasgow.[1] "Long before the hour for the assembling of the Court," says the *North British Daily Mail*, "Jail Square was blockaded by an eager and wistful throng, amongst whom the most extravagant rumours and diversified speculations in relation to the case passed freely current. Every door was besieged by impatient applicants for admission, and it was only by dint of a good deal of struggle, conflict, and turmoil that officials, jurymen, and witnesses were able to force a passage."

The pannel was placed at the bar, attended by the prison matron and a female warder. According to the *Herald*, "She entered the dock with a quick step, but she was very pale, and evidently slightly agitated. She wore a straw bonnet trimmed with white ribbon interwoven with black lace, a lilac merino gown, and a thin black shawl." The *Morning Journal* describes her as "presenting not the slightest appearance of agitation," and with "a slight flush on her cheek." The reporters also differ in their millinery terminology—none but the jury ever arrived at a unanimous opinion on any question connected with this bewildering case. No objection was taken to the relevancy of the indictment; the pannel pleaded not guilty; and the jury were balloted and empannelled. A special defence was lodged for Mrs. M'Lachlan, "that the murder alleged in the indictment was committed by James Fleming, residing with John Fleming, accountant, in or near Sandyford Place, Glasgow." The trial then proceeded.

With much of the evidence accumulated against the prisoner we have already dealt, and it is only necessary now to indicate the remaining portions of the Crown case, grouping, so far as possible, the various witnesses with reference to the points to which their evidence relates.

The first three witnesses, Sheriff-Substitute Strathern and Messrs. Gemmel and Hart, joint Procurators-fiscal, were called

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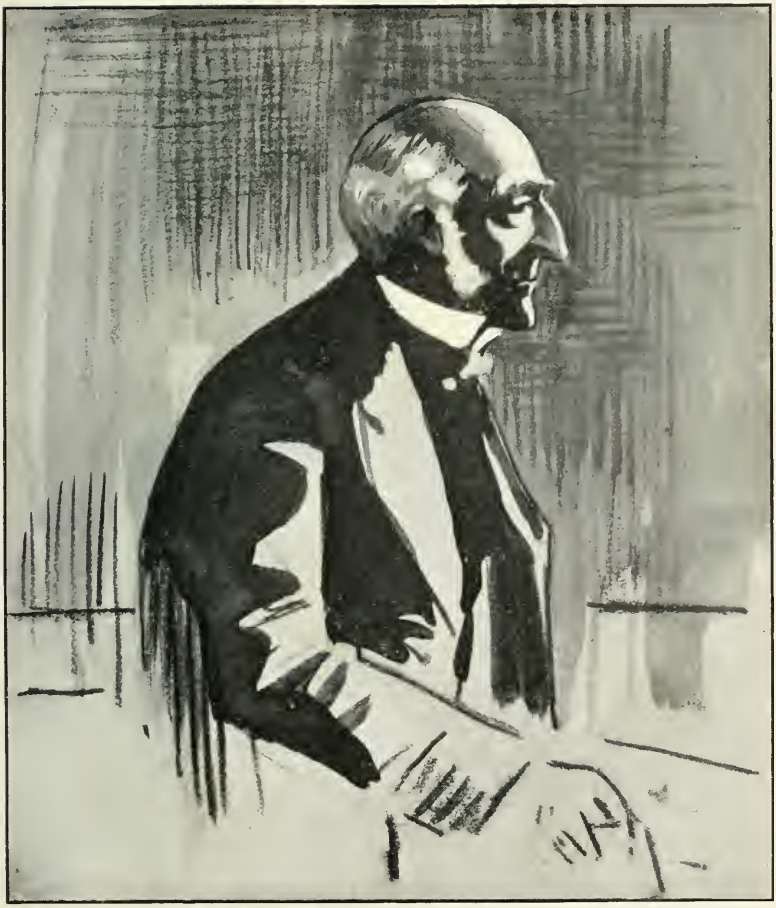
1 It is interesting to note that the senior counsel on both sides of the bar ultimately became distinguished occupants of the judicial bench. Adam Gifford, Lord Gifford (1820-1887), called to the bar in 1849; Advocate-depute, 1861; Sheriff of Orkney, 1865; raised to the bench, 1870; resigned, 1881. Andrew Rutherfurd Clark (Lord Rutherfurd Clark) (1828-1899), called to the bar in 1849; Advocate-depute, 1851; Sheriff of Inverness, 1859; Solicitor-General, 1869; raised to the bench, 1875; resigned, 1896.



James Fleming.

(From an original drawing made in Court, in the possession of the Editor.)

to prove the panel's three declarations. They were cross-examined by Mr. Clark with reference to the circumstances in which these were emitted, and especially as to the fact that when the prisoner's husband was apprehended and his declaration taken for use against his wife, the authorities well knew that he had been absent from Glasgow at the time of the murder.[1]

Mr. Fleming and his son John having given their evidence regarding the discovery of the body as before narrated, the old man James Fleming was called. The *Morning Journal* report states that "he entered the dock [*sic*] nimbly"—the wish, no doubt, was father to the thought. Under the tactful guidance of Mr. Gifford the old man then told the following curious but coherent tale. He stated that he was eighty-seven years of age; that he was employed by his son in managing certain properties and collecting the rents thereof; that at half-past nine o'clock on the night in question, having spent the evening with the servant in the kitchen, he retired to bed in his own room, situated on the flat above, leaving the girl still busy at her work—"she had been thrang for three days wi' a washin'." That in the morning he was awakened "wi' a lood squeal, and after that followed ither two," whereupon he jumped out of bed, and, looking at his watch, found it was exactly four o'clock—"a bonny, clear morning." That at the time he attributed the "squeals" to a sister of the servant, who, he thought, would be spending the night with her; that he returned to bed, fell asleep, and did not waken again till six o'clock, from which hour he lay awake until he rose; that it was the servant's invariable custom to bring his porridge up to his room about eight o'clock; that her failure to so do on this occasion surprised and disappointed him—"I wearied very much for her." That he rose at nine o'clock, put on his clothes, and went downstairs "exactly after that." That he "gied three chaps" at the servant's bedroom door, and, receiving no reply, tried the "sneck" [latch], found the door locked, and no key in it; that he then went into the adjoining pantry and found the window [wicket?] in the area standing open—"I drew it to, and returned to the kitchen

1 "It is impossible to approve of the method of examination which appears to have become the practice in Glasgow, and under which the idea of a declaration as a spontaneous or voluntary statement of the prisoner is entirely lost sight of."—*Journal of Jurisprudence*, 1862, vol. vi., p. 514.

again." That the fire was then burning there, and he put on some coals; that the door bell rang, and, on answering it, he found the servant from next door [Elizabeth Brownlie], who "wanted the len' o' a spade." That he went down to the washing-house [at the end of the garden] to get the spade, but when he reached the washing-house door "there was no key in it." That in the course of this errand he found the back door of the house locked, with the key on the inside; that this occurred at eleven o'clock; that before this he had found the front door unlocked and the key in it, "just snecked, ye ken, not locked" [upon which fact he volunteered to the Court the comment], "sae whaever had been in they had got out by the door; there is nae doubt o' that." That his next caller was the baker, who came shortly after the girl Brownlie, and from whom he took "a half-quarter loaf." That at twelve o'clock he went to Mr. Fleming's office, thence to the Bridgegate, to overlook some repairs upon his son's property there, and returned to the office, where he remained till two o'clock, when he took a 'bus home to Sandyford Place; that he prepared his own dinner, and did not again leave the house that night; that at seven o'clock a young man, giving the name of Darnley, rang the bell and asked to see Jessie M'Pherson, upon whom he said he had promised to call; that he [witness] said she was not in, whereupon the visitor left; that he observed that the screens containing the washing in the kitchen had been "laid or driven down" against the press door; that he removed therefrom a dozen clean shirts belonging to him, two of which he saw were "marked with blood," and laid them by in his chest of drawers; that at eight o'clock he made tea, and sat up till after nine, thinking that the servant "would make her appearance, but she did not." That next morning (Sunday) the bell was rung by the milkman, but he did not answer it; that he made his own breakfast and went to the church; that on the way thither he had some conversation with a neighbour, Mr. M'Allister; that in the afternoon he dined on bread and cheese, and went again to church; that the same night the lad Darnley repeated his visit, and asked if Jessie M'Pherson was in, when the following conversation took place:—"I said, 'No.' He asked, 'Is she at church?' I said, 'I don't know.' Says he, 'If she comes out the town will she come this way?' I said, 'I suppose she will.' He went away." That on the Monday morning he rose at eight

o'clock, as was his practice on that day, to go through the Bridgegate property and collect the rents; that he went to the office for his books, collected his rents, deposited same at the office, and returned home about one or two o'clock; and that at four o'clock "young John" came home, followed by his father.

The witness then described the finding of the body, as before narrated; identified the pawned plate as his son's property; and denied the prisoner's statement that he had given her those articles or instructed her to pawn them. He recognised the prisoner as an old servant of the family, and stated that a year ago he had visited her at her own house, having been invited by her to do so when she was calling on Jessie M'Pherson; that he had once done the like on a previous occasion; and that, with these exceptions, he had never seen her since she left his son's service until confronted with her on his examination at the County Buildings.[1] He said that he had found the glass window of the pantry open on the Saturday morning, when he put out his hand and drew-to the wicket.

This closed the examination-in-chief of old Fleming, and Mr. Rutherfurd Clark, then Sheriff of Inverness, and one of the ablest members of the Scots bar, commenced his cross-examination, which, to be appreciated, must be read *in extenso*, and to the report whereof, printed in the report of the trial, the reader is referred. His opening, "Was your watch right that Saturday morning?" is significant, for it was upon the question of time that the statements of the witness were to be most severely tested. Old Fleming maintained that on the Saturday morning he did not leave his bed till nine o'clock; that the first person to whom he spoke after he rose was "the girl for the len' o' a spade" at eleven o'clock, and that the front door was not then upon the chain. Five times, in answer to reiterated questions, he swore that the girl was the first person to whom he opened the door that morning. The milk, he stated, in reply to counsel, was usually brought to the house between eight and nine. Then Mr. Clark put his crucial point, "Did the milk come upon the Saturday morn-

1 When, by the way, as was reported in the newspapers at the time, "he denied that he ever knew her, and, being reminded that she had once been his servant, affirmed that he would not have taken her at all for the same person."

ing?" With this apparently simple question, frequently repeated in various forms, the witness fenced with an ingenuity which at least did much credit to his mental powers. Seven several times he distinctly swore that the milkboy did *not* call —that he had no recollection of his doing so. In the end, however, he was brought to admit that the milkboy *did* call that morning "betwixt eight and nine," and that he [witness] told the boy that he required no milk at that time. He first stated that he "supposed" he would then be dressed; but on being reminded that he had repeatedly sworn he did not rise till nine he declined to "charge his memory" as to whether he was dressed or not.

The most remarkable passage in the cross-examination is that which relates to the reason given by the witness for opening the door himself to the milkboy on the Saturday morning, instead of allowing the servant to do so as usual. His answers to this question, more than once repeated, were as follows:— "Jessie, ye ken—it was a' ower wi' Jessie afore that"; "There was nae Jessie to open the door that morning"; "She was deid before that"; "On Saturday morning, ye ken, Jessie was deid—she couldna open the door when she was deid." Being asked if, when he answered the bell, he knew that Jessie was dead? he replied ("sharply and with emphasis") that he did not. In answer to various questions as to the position of the chain upon the front door when first seen by him that morning, he said that the door was not upon the chain; then, that it was; and, finally, that it was not—"I could give my oath on it." He also stated that he had been through the house before the milkboy came, and was quite certain this was after nine o'clock, adding, "The milkman whiles does not keep the appointed time." He refused to be further drawn as to whether he was or was not dressed when he went downstairs, pleading that "the memory of a man of seventy-eight years of age is not so fresh as a young man's," whereupon a juror pointed out that he had already given his age as eighty-seven. The witness adhered to the longer figure.[1]

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1 "Old Mr. Fleming is a native of Cumbernauld, and was well known in his younger days to persons thereabouts. He was born and brought up at Bar Path, Kilsyth, and previous to his removal to Glasgow, where he commenced business as a manufacturer, his occupation was that of a hand-loom weaver. . . . It is also stated by those who knew the family that Mr. Fleming cannot be so old as represented by ten years."—*Falkirk Herald.*

In reply to further questions, he stated that "he could not be pointed" as to whether the milkboy came before or after he had "chapped" at the servant's door; and that his refusal to take in any milk had nothing to do with his not having got his porridge that morning—"I could take my porridge wanting my milk, and can do so yet." The cries, he said, heard by him in the night were "as if somebody was in distress." Asked if, having heard these cries, and in the morning found the servant missing, her door locked, and blood upon his shirts, he did not suspect that something had happened, he answered, "No; I never thocht anything was wrong." He stated further that nothing in the appearance of the kitchen attracted his attention on the Saturday, Sunday, or Monday: that during those three days it never occurred to him either to send for the police or to have the servant's door opened, or to make any inquiries about her in the neighbourhood, or to mention to the servant from next door, the lad Darnley, Mr. M'Allister, Mr. Sloan (his son's confidential clerk at the office), or the other persons with whom he had spoken, that the girl was amissing—"I told nobody; I was expecting her every hour and every minute"; he never thought that she had run away. Yet he admitted that she had never before been absent from the house except on her day out or when he knew her whereabouts.[1] Asked what had become of the single teaspoon, the only article of plate which he said he had used during the three days, he replied, "I tell you I ken naething about it; I took no charge" [of the silver].[2] He admitted that he had never used spectacles till the day before the trial: those he then wore were given him as a present—"I can see weel eneuch to read without them." He said that no milk was taken in by him on the Saturday or Monday.

This concluded the cross-examination of James Fleming. It is noteworthy that Lord Deas put no question to him

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[1] And, as we have seen, he announced to his grandson the fact of her disappearance in the words, "She's away, she's cut." It is also to be noted that although he alleged, as a further reason for his doing nothing, "I kent Mr. Fleming would be home on Monday, and would put all things right," he was at the office twice that morning, but, instead of awaiting his son's return from Dunoon, he left shortly before Mr. Fleming arrived.—Evidence of Andrew Sloan at trial.

[2] Fleming does not appear to have been asked if he did not miss the customary silver, which, according to his son's evidence, was what the servant "had out for daily use from the sideboard in the dining-room."

directly (though his lordship interrogated wellnigh every other witness in the case), being satisfied, no doubt, that he had told, in terms of his oath, "the truth, the whole truth, and nothing but the truth."

With reference (1) to the apathy displayed by old Fleming regarding the servant's disappearance, and (2) to what Lord Deas termed his "confusion" as to the incident of the milkboy, although, in accordance with the advice of Mrs. Gamp, we "seek not to proticipate," it may now be mentioned that the following facts were clearly proved by the evidence of other witnesses:—(1) That old Fleming was notoriously of an abnormally suspicious and inquisitive disposition; that nothing could take place in the house without arousing his curiosity; that the door bell could not be rung without his knowing the cause, and that he would even rise from his bed to look out of the window on such occasions; that if a servant left the house upon an errand he must know where she had been and what she did; that he devoted much attention to acquiring a full knowledge of such persons as visited the servants, and, if possible, personally interviewed them; that he extended the sphere of his observations to the servants next door, so far as he had opportunity of spying upon their movements; and that in everything relating to the deceased girl, who enjoyed a special share of his attentions, he was known to be peculiarly interested. (2) That the milk was usually delivered at the house not later than twenty minutes to eight in the morning; that prior to the Saturday in question he had never answered the door to the milkman; that at 7.40 a.m. on that day the milkboy rang once as usual; that there was no delay in answering his ring; that the boy heard the chain being taken off the door; that old Fleming, dressed in "black clothes," himself opened the door, and "said he was for nae milk"; and that never before that morning had milk been refused at that house.

The history of the prisoner's movements upon the night of the crime, so far as known, were given by the following witnesses:—Mary Black or Adams, who washed and went errands for her, deponed that on the forenoon of Friday, 4th July, when washing in the prisoner's house, she was sent by Mrs. M'Lachlan to redeem from pawn a grey cloak which the prisoner "said she wanted, to go from home"; that for this purpose the prisoner gave her a looking-glass to pledge for

6s. to enable her to pay 4s. 7½d. to release the cloak; that the prisoner requested witness to return between nine and ten that night to keep her child, as she was going to see Jessie M'Pherson; that witness asked her why she went so late, to which the prisoner replied that it was the time when Jessie was got alone—that the old man went to bed then, adding, that "he was fashious about any person coming to the house"; that Mrs. M'Lachlan at the same time told witness to go to a smith's shop and ask the smith to come and "sort" the check key of the front door; that witness forgot to do so, and was prevented from returning that night to look after the prisoner's child.

Mrs. Fraser deponed that, calling at the prisoner's house on the Friday night, she found her dressing to go out; that the prisoner gave her a glass of rum out of a bottle; that they went out together, and parted at the Gushet House, in Stobcross Street, at about ten minutes past ten.

Mrs. Campbell, who lodged with the prisoner, heard her and Mrs. Fraser go out together about ten o'clock; she knew of no check key for the front door, but the prisoner had often spoken of getting one; she missed a bottle from her house on the following Monday, but could not identify the bottle produced as hers. At half-past five on Saturday morning (there was a public clock visible from her window) she was awakened by the crying of the prisoner's child, and going into her room found the child alone in the bed and the prisoner absent. The door bell was rung at nine o'clock, and witness, answering it, admitted the prisoner. She was carrying a large bundle under her cloak, and went straight into her own room. Mrs. Campbell noticed that the prisoner was then wearing a brown merino gown, which witness had never seen before, and different from the dress she had on the previous night.

In whatever manner Mrs. M'Lachlan had spent that eventful Friday night she allowed herself little time for rest or reflection upon the following day. Her movements during Saturday, 5th July, may be traced with much minuteness in the evidence of the various witnesses, of which space here permits only a rapid survey. After her return Mrs. Campbell saw her go downstairs to her cellar with a clothes-basket, and at ten o'clock she again went out. Some time in the forenoon the prisoner purchased in the shop of James Fullerton, ironmonger, Argyle Street, a japanned tin box, in which she placed a bundle

she had brought with her; she then padlocked the box and took away the key. She stated that she was going to Edinburgh in the afternoon and would return later for the box. She did not do so, however, until Wednesday, the 9th. This was the box entrusted on that day to the care of the mythical "Mrs. Darnley, Ayr," containing, as we know, the missing clothes of the deceased, other than the brown merino gown. At eleven o'clock she was at the house of Mrs. Rainny (Mrs. Adams' landlady) inquiring for Mrs. Adams, who was not then in. Between eleven and twelve she called at the factor's office and paid the witness Railton £4 to account of the £4 19s. she was due in respect of arrears of rent. Railton paid the money into the bank, which closed that day at twelve o'clock. Between twelve and one she pledged, in name of "Mary M'Donald," the articles of silver plate before referred to, with Lundie, the pawnbroker, asking £6 10s. and receiving £6 15s. At a quarter-past one she was back at Mrs. Rainny's house, when, finding Mrs. Adams was still out, she asked Mrs. Rainny to redeem for her a black poplin dress. Mrs. Rainny did so, and the prisoner, in her house, then changed the brown merino gown she was wearing and put on the poplin, remarking that she was going with the former to the dyers. Elizabeth M'Crone, shopwoman to Robert Murray, dyer, Argyle Street, deponed that on Saturday, 5th July, a woman giving the name of "M'Donald" left a brown merino dress to be dyed black and a grey cloak to be cleaned. Witness could not identify the prisoner as the woman. At half-past three, in her own house, the prisoner asked Sarah Adams (who had until five weeks before been her servant) to take a black leather trunk, with an address on it, to the railway station to be forwarded to Hamilton. Sarah "couldn't read writing," but this we know was the trunk consigned to the apocryphal "Mrs. Bain," in which were the blood-stained skirt and petticoats worn by the prisoner on the night of the murder. At four o'clock Mrs. Adams, having heard from Mrs. Rainny that Mrs. M'Lachlan wished to see her, called at the prisoner's house, and was entrusted with the sum of £2 for the purpose of redeeming certain articles belonging to her from pawn. Being aware that the prisoner had previously been short of money, Mrs. Adams made the jocular, but in the circumstances infelicitous, remark, "Whom did you rob?" The prisoner then gave her the wires of a crinoline, which she said had been accidentally

burned by her child pushing it from a chair into the fire, and told Mrs. Adams to "make them down" for her daughter Sarah.

The dresses of Jessie M'Pherson and the prisoner's clothes were identified by divers witnesses, with whose evidence it is unnecessary to deal in detail—the former by the deceased's friends and fellow-servants, Mary Downie and Margaret Maclachlan; the latter by Mrs. Campbell, Mrs. Adams, Sarah Adams, and Mrs. M'Gregor, the dressmaker. The adventures of the tin box and of the leather trunk, and how Mrs. M'Lachlan spent her day in the country, have been already mentioned.

We have now briefly to note the purport of the remaining evidence adduced for the Crown.

Elizabeth Brownlie, the servant from next door who came for the spade, contradicted old Fleming in several particulars. She stated that she rang the bell of No. 17 on the Saturday afternoon between two and three o'clock; that the old man answered it, and said "the girl was out"; that she accompanied him downstairs to the back door; that he went half-way down to the washing-house outside, turned back, and told her the door was locked; that she suggested that the key might be in the kitchen, but he said, "No, he had already looked there." She was not in the kitchen, and did not notice the floor of the lobby. In cross-examination witness stated that before this, at ten o'clock the same morning, she had seen old Fleming go out for coals to the coal cellar adjoining the washing-house, and that his manner of doing so attracted her attention at the time—"he looked round to see if any person was looking." She had been informed by the deceased that old Fleming watched all that the neighbours' servants did, and witness had heard her speak of him as "that auld deevil."

Andrew Darnley described his visits to No. 17 on the Saturday and Sunday nights. He stated that on the first occasion he asked old Fleming "if there was one Jessie M'Pherson here?" which the old man denied and afterwards admitted; that in reply to his questions the old man said "she had been out a good while"; and that on the following night, when again informed by old Fleming that Jessie was not in, witness remarked, "Surely she was often out just now?" to which the old man made no reply.

Andrew Sloan, clerk and cashier to Mr. John Fleming, deponed that old Fleming was employed by his son, Mr.

Fleming, to collect the rents of a number of small houses at a salary of £40 a year; that on Saturday, 5th July, old Fleming was in the office for half an hour; that he was again there on Monday, the 7th, at nine o'clock; that he paid witness the rents he had collected; that he left the office at ten o'clock, before Mr. Fleming and his son came up from Dunoon; and that he made no reference to the disappearance of the servant.[1]

John M'Allister stated that he met old Fleming outside his own door in Berkeley Terrace on the Sunday, shortly before eleven o'clock, on his way to church. "Had old Fleming always a respectable character?" asked Mr. Gifford. "So far as I know," said the witness. In reply to Mr. Clark, witness never heard anything against his character until the present case came out, and did not know, until he saw it stated in the newspapers, that Fleming had been before the kirk session. "Now, Mr. Clark," said his lordship at this point, "this need not be opened up just now with the witness," and Mr. Clark sat down.[2]

Charles O'Neil, architect, proved six plans of No. 17 Sandyford Place prepared by him (three of which are reproduced in the present volume). In reply to Mr. Clark, witness stated that the floor of the kitchen was composed of a hard bluish stone, which would dry rapidly.

The jury at this point desired to see the plans, but Lord Deas told them "that the less they confused themselves with plans the better." The reader, undismayed by this dictum, will observe from the plans of the sunk floor that, in addition to the blood stains in the basement before described, there were marks of blood on the wall at the foot of the stairs; on the floor of the room in which old Fleming kept his clothes, and also in the lobby near the back door. None of these marks was explained by the evidence.

The motive for the prisoner's commission of the crimes libelled, as suggested by the Crown, being her poverty, Thomas Millar, pawnbroker, was called to prove the pawning of goods by Mrs. Adams and her daughter Sarah in May, June, and July in name of "Mary Fraser, Main Street"; and Thomas

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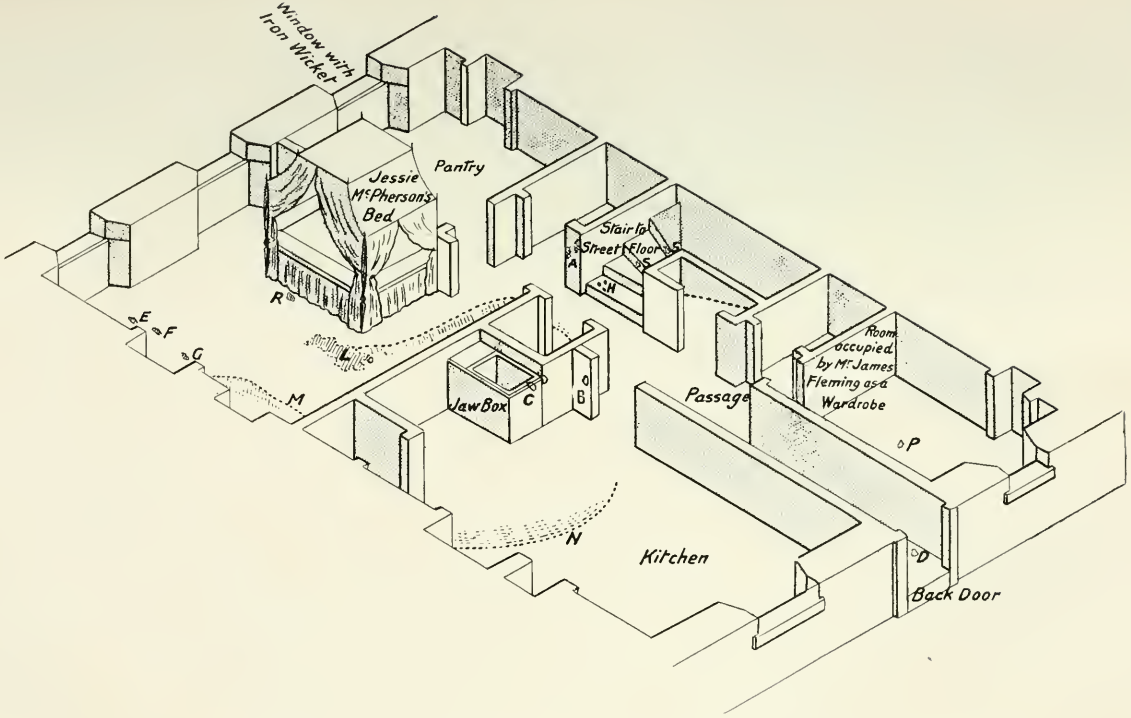
1 It will be observed that Mr. Sloan's evidence flatly contradicts that of old Fleming as to the time spent by the latter in his son's office on the Saturday and Monday.

2 We shall see in the sequel what was the nature of the *fama* to which the witness referred.



Isometrical view of sunk floor of 17 Sandyford Place.

A—Finger marks. *B*—Blood marks behind kitchen door. *C*—Blood marks on jaw-box. *D*—Spots of blood at back door.
E F G—Foot marks. *H*—Drops of blood. *L*—Where the body was found. *M*—Dotted line showing margin of washed part of floor.
N—Do., do. *P*—Spot of blood. *R*—Droppings of blood. *S*—Blood on breasts of steps.

Robb, assistant superintendent of police, deponed to his discovery in the prisoner's house of forty-one pawn tickets in that name. Sarah Adams said that, before she left the prisoner's service, Mrs. M'Lachlan had sent her to borrow £2 from Jessie M'Pherson. She got the money. David Caldwell, who had charge of the property, 182 Broomielaw, stated that the prisoner was in arrear with her rent in July. In reply to Mr. Clark, witness said he had told her that he did not desire to push matters to an extremity. He had no intention of taking immediate steps against her.

Two bank officials deponed that, at the date of the crime, old Fleming had £150 and £30 at the credit of his accounts with the Savings Bank and Royal Bank of Scotland respectively —the inference being that, in such circumstances, he was unlikely to steal his son's plate for the purpose of raising £2 15s. for a trip to the Highlands.

The medical evidence for the prosecution was given by Dr. Watson, who first saw the body, and by Drs. Fleming and Macleod, who had conducted the post-mortem examination, and were examined with reference to their report. Some portions of their evidence we have already noticed. The injuries inflicted upon the deceased were of three classes, viz., (first) two transverse wounds across the bridge of the nose, and another of similar character across the forehead; (second) a multiplicity of wounds upon the back of the head and neck, mostly on the right side; and (third) certain incisions upon each of the hands and wrists. The body, when first seen, lay on its face on the floor between the table and the bed, the bed-clothes and pillows of which were heaped together and stained with blood. A blood-stained sheet was found rolled up under the basin-stand. It was damp, and presented the appearance of having been washed. The upper portion of the body was clad in a chemise and a woollen jacket, both of which were quite damp. The neck and chest of the deceased, and also a portion of the bedroom floor between the table and the hearthstone, appeared to have been washed with water. The furniture of the room was in confusion, and there were various marks of blood on the hearthstone and on the floor beyond the washed area, notably the three footprints before described. The doctors were of opinion that all the injuries inflicted could have been caused by the cleaver produced; although Dr. Watson thought that the cuts on the wrists must have been made with a sharper instrument.

Mr. Clark cross-examined Drs. Fleming and Macleod with reference to the "remarkable bruise" on the back of the body spoken to by Dr. Watson, but not mentioned by them in their report, and of which they had no recollection. On the reading of the report, Lord Deas rightly objected to the passage regarding "evidence of a severe conflict" therein stated to have been obtained in the kitchen, as not proper to a medical report. Dr. Fleming could give no reason in support of this view other than the streaks upon the kitchen floor, caused by the dragging of the body; but Dr. Macleod maintained that around the circumference of the washed portion of the kitchen floor he noticed confused footmarks—"they were the marks of a sort of twist or turn of the heels on the floor, and the ball of a foot had also left its marks on the stones. There were, upon the jawbox, upon the inside of the door, upon the doorpost, upon the rug or mat, upon an angle of the wall immediately outside of the kitchen door, upon the upper part of the door of the pantry press close to the kitchen, in the passage between the kitchen and the room, and also upon the corner of the wall at the foot of the stair, marks of blood. There was also blood on the lowest step of the stair." Upon these marks, coupled with the wounds on the deceased's wrists, he based his opinion.

Professor Penny proved his report upon the several articles examined by him as already mentioned.

The declarations of the prisoner were then about to be read, when Mr. Clark objected to their admission. They were, he said, unfairly taken, and did not form the voluntary statements of the pannel. The right of the Crown to take declarations had been greatly abused in this case, and to admit them would be oppressive to the prisoner and unjust. His objections were as follows:—(1) That the husband of the pannel had been apprehended on the same charge, and had been examined by the Sheriff-Substitute and the Procurator-fiscal before she emitted her first declaration, and at a time when the Sheriff and Fiscal had no reason to suspect that the husband was in any way connected with the crime, and that his declaration had been taken as a precognition by which to cross-examine the pannel; (2) that the three declarations taken from the pannel were not proper declarations or voluntary statements at all, but a series of answers to questions put by the Fiscal as to a witness; (3) that the examination of the pannel had been

oppressive in respect of the length of the declaration and the time occupied in the examination; and (4) that the pannel was subjected to unfair treatment under examination, in respect, as appeared from the second declaration, she was cross-examined about certain articles then in the possession of the Fiscal, which were not shown to her till after the examination with reference to them had been concluded, and which had been done for the purpose of entrapping her into falsehood. Lord Deas repelled these objections, and the declarations were then read, which closed the case for the Crown.[1]

The evidence for the defence opened with George Paton, the milkman. He stated that he called with his cart as usual at Mr. Fleming's house at twenty minutes to eight on the morning of Saturday, 5th July. His assistant, the boy M'Quarrie, rang the bell; it was answered immediately. Witness saw the door opened "a small bit," but did not see who opened it. No milk was taken that day nor on the Sunday and Monday following. On no other occasions had the milk been refused at that house.

Donald M'Quarrie, the historic milkboy, deponed to the same effect. He was there with the milk along with George Paton; he went up and rang the bell; old Fleming answered it; he did not ring more than once, and had not to wait any time before it was answered. He heard the chain being taken off the door before it was opened by old Fleming. The old man was dressed—he had on black clothes; he said he "was

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1 The *Journal of Jurisprudence* (1862, vol. vi., p. 513), in an article commenting on the manner in which these declarations were taken, observes—"The objects of the examination appear to have been two. Lord Deas explains one of them, which is common to all such examinations. 'One great object,' said his lordship, 'is to allow the prisoner an opportunity, if the prisoner thinks proper, to make some explanation of the circumstances which may seem to weigh against her.' This we had hitherto understood to be the only object of such examinations; but in this case at least there would appear to have been another great object. What this was Lord Deas failed to explain, but it may be easily gathered from the circumstances. We regret to say that it appears to have been nothing else but to lead the prisoner into falsehoods with the effect, if not for the purpose, of destroying her credit on every point. . . . Fortunately, examinations in this manner are rare; but why Lord Deas should have passed these declarations without animadversion is not very apparent. That he would not have been justified in withholding them altogether from the jury may perhaps be admitted; but a vicious practice in a matter of criminal investigation was certainly a fair subject for criticism by the superior wisdom of the principal Court of judicature."

for nae milk." This would be about twenty minutes to eight; that was the ordinary time of getting to Sandyford Place. Witness never knew of old Fleming answering the door before.

Mrs. Mary Fullerton or Smith said she had known Jessie M'Pherson for five or six years, and had often heard her speak of the prisoner in friendly terms. She last saw the deceased on Sunday, 28th June, in Sauchiehall Street, when walking with her husband. Mrs. Smith remarked to Jessie that she was looking ill, whereupon the latter said, "I do not feel very happy or comfortable with old Mr. Fleming, for he is actually an old wretch and an old devil"; she said that very seriously. She also said she would come to see witness on that day fortnight—her Sunday out—when she would tell her something that she did not like to tell before Mrs. Smith's husband—"I cannot tell you what is the cause, because Sandy is with you." Witness knew that the prisoner and Jessie M'Pherson were great friends.

Mary M'Pherson or M'Kinnon, a foster-sister of the deceased, spoke to the affectionate relations subsisting between Jessie and the prisoner. Witness last saw her sister alive a month before the murder, and asked her why she never came to see her. In reply, Jessie said she had so much to do, and her heart was "broken by the old man, who was so inquisitive that the door bell never rang but he must see who was there and know all about them."

Martha M'Intyre, a fellow-servant of the deceased, deponed that old Fleming was very inquisitive regarding who was in the house and as to the movements of the servants. When they went out, he had to know where they had gone and what they had been doing. He always inquired particularly about Jessie M'Pherson—more than about the other servants. Witness had seen him get out of bed to see who had rung the door bell.

Alexander Cameron, police constable, who was summoned by Mr. John Fleming on the discovery of the body, gave evidence as to that gentleman's statement that he had pushed a key out of the lock of the bedroom door, as already mentioned. Witness searched for such a key without success.

Ann M'Intosh, sister of the prisoner, stated that the prisoner's husband always gave his wife his wages, amounting to 30s. a week. The prisoner was also in the habit of receiving money from her brother, John M'Intosh, a seaman, after every voyage.

Witness knew he had given her twenty-five sovereigns on 9th November last. The prisoner had been in bad health since the birth of her child.

Robert Jeffrey, criminal officer, deponed that, when engaged in searching the house after the murder, he found, on 8th or 9th July, in old Fleming's bedroom a grey canvas clothes bag marked with blood. He delivered it to the Procurator-fiscal, and had never seen it since. [Mr. Clark here made inquiry whether the bag referred to had been labelled by the Fiscal, when he was informed that it was not among the articles produced in evidence.[1] A bag was produced and shown to witness, but he said it was not the bag referred to.] The bloody mark he had seen was of the size of a shilling, in the centre of one side of the bag. "Might it not have been something else?" suggested Lord Deas; the witness believed it was blood. He had drawn Superintendent M'Call's attention to it at the time. On the same occasion witness also found a strip of cotton cloth spotted with blood under the cover of an easy chair in old Fleming's bedroom. In reply to Lord Deas, these were the only articles found belonging to old Fleming which were marked with blood.

Superintendent M'Call, recalled and questioned by Mr. Clark regarding this bag, added that he saw marks of blood upon it. The bag appeared to have been washed after the blood was on it. It was quite dry. The mark extended almost all over the bottom of the bag. Old Fleming had told witness that, on the morning after the murder, he had found the wicket open and the pantry window closed and snibbed on the inside. It was in that state when witness examined it on the following Monday.[2] Witness examined the area, but saw no sign of footsteps.

Colin Campbell, police constable, deponed that he was on night duty at the time of the murder. Sandyford Place was in his beat, and he knew Mr. Fleming's house, No. 17. At half-past eight or a quarter to nine on the night of Saturday, 5th July (the night after the murder), he was at the door of

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[1] The authorities, having released old Fleming, apparently had no further use for this bag, which could not help their case against the other prisoner.

[2] Old Fleming, it will be remembered, had stated in his examination-in-chief that he found the pantry window open and unfastened on the Saturday morning.

No. 18, outside the railings, when he saw two women come out of the front door of No. 17. They stood for about five minutes, then one went back into the house and shut the door, and the other went away and passed him. The prisoner was not either of the women he had seen that night. Witness fixed the date by the fact that he had posted that night a letter to his father in Oban, which he had written earlier in the evening before going on duty.

This closed the evidence for the defence, and at five minutes to five o'clock the Advocate-Depute rose to address the jury on behalf of the Crown. Mr. Gifford's speech was, in the main, a fair and temperate argument upon the evidence, but a noteworthy feature was his silence regarding the many weak points in his case and his failure to grapple with certain unexplained facts which did not square with the theory of the prosecution.

How, upon that theory, viz., that the prisoner, with every circumstance of savage ferocity, slaughtered her most intimate friend for the sole purpose of plunder, to relieve her own pressing need, were the following remarkable facts accounted for?—That the upper part of the body had been washed with water subsequent to the infliction of some at least of the injuries; that the clothing upon it was wet when found; that although the floor of the bedroom had been partially washed, the murderess had been so considerate as not to obliterate the three footprints upon which alone the Crown proved her presence in the house; that these appearances were all presented within a room *the door of which was locked and the key removed*, and therefore were not explicable on the hypothesis which accounted for the washing of the kitchen, *i.e.*, to conceal all traces of the deed from the vigilant (and then unspectacled) eye of old Fleming; that the floors of the lobby and kitchen were still moist when observed by Dr. Fleming at five o'clock on the Monday afternoon, yet were dry by ten when examined by Superintendent M'Call; and that after lingering all night upon the scene of her crime till nearly nine o'clock next morning to effect this elaborate "redding up" of the premises, thereby enormously increasing the risk of detection by the old gentleman in his room on the flat above (who, on his own showing, had been disturbed at four o'clock, and lay awake after six, and, as was otherwise proved, had been up and about the house before twenty minutes to eight), the robber departed with a few dresses and certain

inconsiderable teaspoons, half of which were plated, leaving in the sideboard the best of the silver (with the existence of which, as a former servant, she must have been well acquainted) and whatever other portable articles of value the house contained.[1]

Mr. Gifford at the outset very properly reminded the jury that they were trying the prisoner, and not James Fleming—

> And therefore, while you will consider, while you will anxiously weigh every suggestion which has been made as to the possibility of the murder being perpetrated by somebody else than the prisoner—whether that other person be James Fleming or some other party unknown—you will inquire into these matters solely with the view, and only to the effect, of ascertaining whether or not the prisoner is guilty of the charge which has been imputed to her. That is the object of the investigation. The prosecution has shut out nothing. Every facility has been given, I think every facility has been given to inquire in the fullest possible way to the bottom of this dark mystery, and if proof exists, if proof has been laid before you, if circumstances amounting to proof have been brought out in evidence before you to lead you to suppose that the deed was done not by the prisoner but by some one else, or may have been done by some one else, on reasonable probabilities, you will unquestionably give her the benefit of such a doubt, and acquit her of the charge which has been made against her. But the guilt of James Fleming is not the subject of inquiry at all. It is possible in crimes of this kind that more than one person has connection with it. If guilt is brought home to one, it will not be enough to say "Somebody else had a share in it." If there were more murderers than one, if the prisoner were one of them, you must find a verdict of guilty against her. For the question always is, and the only question is—is the prisoner guilty or is she not guilty?—not had she confederates, not was she alone. These are not the questions, and your verdict will not find anybody else concerned in the crime. That is no part of your verdict; all that your verdict can find is whether or not the prisoner was concerned.

This admirable passage is characteristic of the fairness, more usually associated with judicial utterances, which marked Mr. Gifford's tone throughout. He frankly admitted "the extraordinary circumstances connected with this case—which distinguish it almost over all others": the presence of old Fleming in the house when the deed was done, and his behaviour during the three following days. "And you will see, gentlemen," said he, "that the gravest possible suspicion is attached to such a person so acting." Then, having given old Fleming's own version of his conduct, Mr. Gifford observed, "No doubt,

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1 "It is very strange, if plunder was the object the murderer had in view, that a sum of money which lay on a shelf in M'Pherson's bedroom was left untouched, and also that several articles of silver plate, including a cruet-stand, were left beside the body."—*Glasgow Herald*, 10th July, 1862.

gentlemen, a most extraordinary statement; and you will not wonder when you hear that he was apprehended and that a very serious charge was made against him." Mr. Gifford also admitted that "the statement, extraordinary as it is, is made more extraordinary" by the evidence of the milkboy, and continued, "But, passing from this—leaving its inconsistent and its extraordinary character to receive the weight which you think right—I ask you to look at the far more important evidence of guilt affecting the prisoner."

Such being the views regarding the position of old Fleming expressed by the Crown prosecutor, whose duty it was to destroy the plea of the defence and, if practicable, to vindicate the man's conduct, it will be of interest to find later how the same facts were represented to the jury by Lord Deas.

Mr. Gifford's address occupied two hours and a half, and on its conclusion Mr. Rutherfurd Clark commenced his speech for the defence. His address, in the opinion of the day, suffered in contrast to that for the prosecution; but it was unfortunate that he was required to address the jury so late as half-past seven o'clock, at the close of the third of three long and strenuous days. It has, moreover, to be borne in mind that Mr. Clark had, as we shall shortly see, greatly hampered the defence by his suppression of a "Statement," made by the prisoner to her agents six weeks before the trial, which he then had, so to speak, in his pocket, where it evidently caused him much inconvenience. It is sufficient here to mention that in this "Statement" the prisoner acknowledged having been in the house when the murder was committed; and that Mr. Clark had, after divers anxious consultations with her agents before the trial, decided, against his client's wish, to reserve the same, and to rely upon what he conceived would be the inability of the Crown to prove her presence in the house.[1] No doubt he was influenced in his decision by the fact that to a similar failure on the part of the prosecutor in proving the requisite opportunity, Madeleine Smith, five years before, owed her life.

But the difficulties involved in the adoption of this course

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1 This was not such a dilemma as that in which Charles Phillips was placed, when defending Courvoisier on his trial for the murder of Lord William Russell in 1840, by the prisoner's admission to him of his guilt. Mr. Clark's client asserted her innocence; and it was for the Crown to prove she was in the house that night.

by the defence are obvious; the result was that, knowing their case not to be based on fact, they were afraid of eliciting the truth by cross-examination for fear of coming upon evidence which would be fatal to their theory. Had Mr. Clark's boldness been justified by success, his conduct would, of course, have been commended; his failure was, after the event, as naturally condemned.

The only trace of the influence of the "Statement" visible in his address is afforded by the passage at its close where, referring to the case for the prosecution, he says—"All the Crown can show is this, that the prisoner was with Mr. Fleming in these circumstances in the house, and the prosecutor calls on you to select one of the two as being the guilty party," and then proceeds to argue, even accepting her presence as proved, that, in the circumstances disclosed on the evidence, such might not be inconsistent with her innocence.

Mr. Clark having concluded his speech at nine o'clock, amidst loud applause from the audience, Lord Deas intimated that he was prepared to proceed with his charge, but, if the jury preferred, he would delay doing so till next day. The latter course was agreed upon, and the Court then rose.

When Lord Deas entered the Court-room on Saturday morning, the last day of the trial, it is stated in the newspapers that he openly carried in his hand, and laid upon the bench before him, the black cap. His lordship was plainly prepared for the worst; and this ominous act would doubtless not be lost upon the jury. Lord Deas commenced his charge about half-past ten, and spoke continuously for four hours. His lordship's charge is characterised by Sir Archibald Alison as "able, but one-sided and unfeeling."[1] The manner in which this charge was delivered, and the matter which it contained, were afterwards, in certain sections of the local press, made the occasion of violent and unseemly abuse, subversive alike of the dignity of the bench and of the due administration of justice. The gross impropriety of such conduct was, in all respectable quarters, reprobated at the time. But it cannot be gainsaid that the newspaper press, as a whole, disapproved of the undue emphasis laid by Lord Deas upon such of the evidence as made for the prisoner's guilt, and the very different treat-

[1] *Autobiography*, ii. 504.

ment accorded by his lordship to everything adverse to the innocence of Fleming.[1] As an example of this general feeling we may quote the following passage, not from some hysterical local organ, but from the responsible pages of the *Law Magazine and Review* (1863, vol. xiv., pp. 90-91), the leading English journal of jurisprudence:—

> The conduct of Lord Deas has been almost universally censured, and we are sorry to be compelled to join in that censure against a British judge of high talent and of undoubted zeal in the discharge of what he believes to be his duty. Instead of maintaining a proper judicial equilibrium, and holding the balance of justice even, he put his foot fiercely into one scale and kicked at the other. We shrink from the tedious and unpleasant task of analysing his charge; we leave it to the judgment of every intelligent professional and non-professional reader. Others may find in it what we have failed to find. It lasted four hours, and from beginning to end of it there is not one observation favourable to the prisoner; not one fair consideration of a doubt in her favour; not one suggestion that any fact renders her guilt a matter of the least doubt. On the contrary, facts that in our humble opinion tell strongly in her favour are either quietly ignored or disposed of by reckless assertion of the most transparent sophistry. . . . No advocate who could be replied to would dare to be so reckless in argument, or, rather, in assertion, for argument must always commend itself somewhat to the reason of others. We believe that it is common—too common—for some Scotch judges to act the part of "senior counsel for the Crown," and to forget their dignity so far as to beseech juries to return verdicts of guilty on very insufficient evidence. This excessive loyalty seems to be peculiar to the Scotch character. The late Lord Campbell introduced a modified and comparatively inoffensive form of it into England. He used to boast of his success in obtaining convictions, and talked with patronising complacency of such eminent toxicologists as "Dr. Christison, whose able assistance I had in the trial of Palmer for poisoning." But such undue bias is unbecoming to the bench, unfair to the Crown, and dangerous to the subject, and we hope that the public censure which has fallen upon Lord Deas, who had, and will still have, some reputation to lose, will act as a warning to smaller occupants of the bench who would be more mischievous if they had half his ability.

The same journal (p. 88) describes Mr. Gifford's address as "vastly more judicial than the charge of Lord Deas." An example of this occurs with reference to the important fact sworn

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1 The *Glasgow Herald*, having from the first made no secret of its belief in "the wretched woman's" guilt and the complete innocence of old Fleming, was naturally glad to have its opinion backed by an authority so competent as his lordship. In the course of a strong "leader" on the result of the trial, the *Herald* (22nd September, 1862) said—"Lord Deas's summing up was remarkable for all that could distinguish a judge's charge—dignity, calmness, lucidity, and a searching analysis of every part of the evidence, without a single expression of feeling by which the minds of the jury might have been unduly influenced."

to by Mrs. Adams, a Crown witness, that the prisoner had, upon Friday, 4th July, told her she was going to visit Jessie M'Pherson that night, and asked her (Mrs. Adams) to come and attend to her child during her absence. Mr. Gifford thus referred to the incident—"It is an evidence of innocence, frankly I admit, that she asks Mrs. Adams to keep her child, and tells where she is going. That goes against premeditation for murder certainly, but it does not go much further, for it leads you, naturally, to suppose that the person does what she intended to do—go to visit Jessie." The only allusion made by Lord Deas to this (for the prisoner) vital fact is in the course of his statement of what the Crown had proved—"That she went out upon Friday evening, and that she had arranged upon the Friday evening with a witness—Mrs. Fraser, I think it was—to come and keep her child of three years old whom she could not well leave alone; that Mrs. Fraser did not come. *Mr. Gifford*—Mrs. Adams. *Lord Deas*—That Mrs. Adams did not come; that, nevertheless, she dressed herself in a dress which was described to you—part of it being a brown merino gown," &c. Not only is no observation made upon a fact so favourable to the prisoner, admitted by the prosecutor himself to be proof of unpremeditation, but his lordship has even forgotten the name of the witness who swore to it.

Lord Deas, having defined his duty as "sitting here for the direct purpose of trying the guilty," made the following remarkable observations upon the conduct of old Fleming:—

> Now, then, as to the question whether he opened the door to the milkboy, and what time he opened it, you will consider how far it bears on the question of the murder. That is coupled on the part of the prisoner with what is more remarkable, namely, the length of time which elapsed before he took any notice of the disappearance of the servant from the house. But when you couple these two circumstances—the length of time he allowed to elapse without saying anything about the disappearance of the servant from the house, or doing anything to call assistance, and the confusion he undoubtedly got into in giving his testimony about the opening of the door that morning—you will consider whether there was anything in the whole of these statements which could even be said to be unsatisfactory; and you will further consider whether on all the rest of the evidence that was adduced, apart from what is said to be unsatisfactory in these circumstances, there is anything to inculpate him, or whether that part of the evidence was not quite consistent with and tending to establish his innocence. Now, if that be so—if there is not in the proof a single circumstance even of suspicion against him, and if there is nothing in his own statement unsatisfactory, except that two or three days passed before he gave any alarm about the disappearance, and except

his confusion regarding the milkboy in the morning—you will ask whether that throws any light on the question of the murder or whether, if he had been at the bar, you would have hesitated one moment in giving a verdict in his favour.

We can only notice here one or two instances of his lordship's treatment of such facts as appeared upon the proof incompatible with the innocence of Fleming. The policeman who swore he saw two strange women emerge from the house on the Saturday night was, no doubt, "under a misapprehension in regard to one or two things—in the first place, about the night . . . but you likewise can account for it very easily by supposing that he mistook the door." It was unlikely that Fleming had disposed of any of his clothing—the police took possession of the house upon the Monday, so that after that he had no opportunity—"the probability is that if he had done that they would have been traced and found as the prisoner's have been."[1] Fleming's failure to notice the blood-stained state of the basement flat "would be very little for the purpose of this case, that it founded an observation that he had very little capacity, or was very stupid." With regard to the three screams heard by Fleming in the night, "his own account of that was that he thought the screams proceeded from some loose people outside at the back of the house."[2] Lord Deas disposed with ease of the obtrusive and inconvenient milkboy. "The time for the milkboy to come was between eight and nine o'clock. He says he sometimes came later." This judicial gloss upon the evidence did not pass unchallenged. "*Mr. Clark*—It was twenty minutes before eight when the

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[1] Yet for three days old Fleming was alone in the kitchen with a good fire. The *Herald* (23rd September) upon this point states—"For fear that any waif, however insignificant, which could throw light on the murder might be concealed, they [the police] took down the water-closet in Sandyford Place; they cleaned out and minutely searched the cesspool and ashpit, and they dug up the garden behind the premises; but not a single suspicious article was found. And all this was done before Jessie M'Lachlan was thought of in connection with the case." This, however, cuts both ways, and shows the strong suspicion attaching to old Fleming at the time. It is noteworthy that no question as to his clothes was put either to his son, grandson, or daughter when in the witness-box.

[2] This was, no doubt, Fleming's original version as given to the police; we know that from Mr. Clark's cross-examination of Superintendent M'Call. At the trial, however, he swore "It was a squeal like as if somebody was in distress. I thought that Jessie had got some person in to stop with her."

milkboy came. That was the statement of both the boy himself and his master. *Lord Deas*—We shall see that when we come to the evidence. It does not touch my present observation at all. My observation was that the boy sometimes came sooner and sometimes later."[1] The vexed question of whether or not the chain was upon the front door when it was opened by Fleming for the first time after the murder is settled as follows:—The old man was probably up before the milkboy came and found that the door was not upon the chain—" in that case he might very naturally have put the chain upon the door before the milkboy came, and have taken it off again before the milkboy arrived"; and his lordship clinched this argument by adducing his personal experience of persons who had locked their doors, and half an hour afterwards were uncertain whether or not they had done so. Or, if the jury preferred it, they would judge whether the milkboy heard any chain at all, " and not some other movement connected with the opening of the door." In view of the fact that the deceased was proved to have called Fleming " an auld deevil," his lordship explained that this was due to the dislike of the servants to him—" he was very inquisitive " and " might look a little sharply after them."

But perhaps the most striking instance of the partiality displayed by Lord Deas is his treatment of the significant and suggestive incident sworn to by the witness Mrs. Smith, to which his lordship did not refer until reminded of it by Mr. Clark. It will be remembered that Mrs. Smith met the deceased in the street a fortnight before her death, and remarked that she was looking ill, whereupon Jessie M'Pherson told her that she was very unhappy with Fleming, who was " actually an old wretch and an old devil," and that she could not then tell Mrs. Smith the cause because her husband was present, but said she would call upon the witness for that purpose on her next Sunday out. What was

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1 In none of the four contemporary newspaper reports consulted is there any trace in the evidence of the milkboy, Donald M'Quarrie, of the statement here attributed to him by Lord Deas. The only references to the time contained in his evidence as reported are (1) that he called at the house on the Saturday morning at twenty minutes to eight o'clock; and (2) that that was the ordinary time of getting to Sandyford Place. The sole foundation for the observation of Lord Deas is the evidence of James Fleming himself.

the secret so delicate that the girl could not disclose it to her married friend before that friend's husband? Mrs. Smith never knew, for that day fortnight Jessie M'Pherson was lying dead in the locked room in Sandyford Place. But, seemingly, Lord Deas knew. It raised at the time a very natural suspicion in the mind of Mrs. Smith; "but," said his lordship, "it raises no suspicion in mine. This woman she met was an old acquaintance of hers, and it is quite a natural thing to suppose that, when she said she had something to tell her, what she might have to say was *that she was going to emigrate*"! So Lord Deas was able to assure the jury "that there is certainly no trace in the whole case of anything between the old man and this woman of an improper character at any time." "Circumstances," observed his lordship in another connection, "cannot lie"; and, again, "there may be circumstances of suspicion which might be explained away. You will consider whether the circumstances of suspicion said to be directed against old Fleming in this case would or would not be unsafe to go upon." In conclusion, we may quote the following ingenuous remark to the jury:—"I have said that there is a great deal of the evidence which I do not think it is necessary to trouble you with, *although favourable to the Crown.*"

If it be thought that too much stress has here been laid upon one aspect only of this singular charge, we would remind the reader that, in reviewing the evidence of the prisoner's guilt, every point was put by Lord Deas with a cogency which left no loophole for escape, and the conclusion to which it led was inexorably indicated; that, in her case, there was a total absence of such reasonable or unreasonable doubts as those by which his lordship was beset in his consideration of the case against James Fleming.

Lord Deas concluded his charge at twenty-five minutes past two, when the jury retired to consider their verdict. At twenty minutes to three they returned to Court with a unanimous verdict of guilty upon both charges as libelled.[1] While the verdict and sentence were being recorded, Mr. Clark, after

1 The shortness of time occupied by the jury's deliberations—fifteen minutes—was, in view of the fact that the judge took four hours to sum up the evidence, justly characterised in the Press as "indecent." It was afterwards stated that, on their retiring, the foreman went into a corner of the room and requested each juryman to write his verdict on a slip of paper and hand it to him—an ingenious but somewhat perfunctory mode of discharging their duty.

an earnest conversation with his client, informed the Court that the prisoner desired to make a statement, either by her own lips or to be read for her. Lord Deas intimated that she could do so in any way she pleased, and the prisoner, throwing back her veil and standing up in the dock, said, "I desire to have it read, my lord. I am as innocent as my child, who is only three years of age at this date."

Mr. Clark then read the statement before referred to, which had been communicated by Mrs. M'Lachlan to her agents on 13th August, a copy whereof, made from the original document in the Justiciary Office, Edinburgh, will be found printed in the report of the trial. Its substance is briefly as follows:— Mrs. M'Lachlan went to see Jessie M'Pherson on the Friday night, taking with her some rum in Mrs. Campbell's bottle, and reached Sandyford Place about half-past ten. She found old Fleming still up, and sitting with Jessie in the kitchen. They had a dram from her bottle, and then the old man produced another bottle containing spirits, as to which he and Jessie had some words, the latter remarking, "I've a tongue that would frighten somebody if it were breaking loose upon them." About eleven o'clock old Fleming sent Mrs. M'Lachlan out with his bottle for more drink, and Jessie gave her the key of the lane door. She went to a public-house in North Street, but the shop was shut, so she returned to Sandyford Place, and at the corner of the back lane saw two women, one of whom she recognised and named. She let herself in by the lane door, and locked it. The back door of the house, which she had left open, was closed. She knocked, and after a little it was opened by Fleming, who said he had shut it "on them brutes o' cats." They entered the kitchen, the old man re-locking the back door behind her. She asked, "Where's Jessie? It's time I was going away home." The old man made no reply, and went out to the lobby. She followed, and, hearing moans, entered the bedroom where she saw Jessie lying insensible on the floor, "with her elbow below her and her head down. She had a large wound across her brow, and her nose was cut, and she was bleeding a great deal. There was a large quantity of blood on the floor." Mrs. M'Lachlan threw off her bonnet and cloak, and, while she knelt supporting Jessie's head and shoulders, asked the old man, who had followed her into the room, "What he had done this to the girl for?" He replied that he had not intended

to hurt her. He did not appear to be in a passion, and Mrs. M'Lachlan was not afraid of him. At her request he brought some warm water from the kitchen, and she began to bathe the injured woman's head, sitting beside her on the floor. When Jessie had partially recovered consciousness Mrs. M'Lachlan proposed to fetch a doctor, but Jessie said, "No, stay here beside me." While she was bathing Jessie's wounds the old man came in with a large tin basin and began to wash up the blood around them on the floor, wiping it with a cloth, which he wrung into the basin. He then, accidentally or otherwise, upset the basin, spilling the bloody water over her feet and skirts, so that her boots were "wet through." After Jessie had somewhat revived she asked Mrs. M'Lachlan to lift her into bed, which, with the old man's assistance, was done. Mrs. M'Lachlan again suggested going for a doctor, but Jessie said "No," and the old man said he would get one in the morning. Jessie, nursed by her friend, lay in bed till the day was breaking, the old man going to and fro between the room and the kitchen. While they were alone Jessie told Mrs. M'Lachlan that, some weeks before, old Fleming had come into her bed during the night and attempted to take liberties with her; that she had threatened to tell his son; that he had begged her not to do so, and offered her money; that there had been words between them about it ever since; that while Mrs. M'Lachlan was out for the whisky she had begun to take off her clothes, when he again interfered with her; that she shut her bedroom door upon him; and that he came back and struck her on the face with something, and felled her. In presence of the old man Jessie said that now "she would just have to tell who did it, and why." "No, no, Jess," said he, "ye'll no' need to do that," adding that he would make up for it to her if nothing was said about the matter. He then made Mrs. M'Lachlan swear upon the family Bible "by the Almighty God, that she would never tell to man, woman, or child anything she had seen or heard that night between him and Jess." About three o'clock in the morning Jessie complained of feeling cold. Mrs. M'Lachlan and Fleming assisted her into the kitchen, where she lay on an improvised bed before the fire and shortly fell asleep. Between four and five she got rapidly worse, and asked Mrs. M'Lachlan to fetch a doctor. The latter put on her boots (which, with her stockings, she had previously taken off to dry), and, going into the bedroom, put on Jessie's

French merino gown, hanging there, over her own, "as it was all wet and draggled," together with her own bonnet and cloak. As she went upstairs she met the old man coming down to the kitchen, and told him of her intention. She found the front door locked and the key removed; and, returning to the kitchen, insisted that Fleming should let her out as the girl was dying. He said he would not. She again went upstairs, intending to open the windows and call for aid. She had opened the parlour shutters and window, but saw no one stirring at the back, and was going into the dining-room to look out in front when she heard a noise in the kitchen, and, running down, saw the old man standing over the prostrate girl and striking at her head with a cleaver. She stood on the stairs screaming, "Help, help!" and the old man, pausing in his ghastly work, looked up and saw her. As he came towards her she cried, "Oh, let me away; let me go; for the love of God, let me go away!" He assured her that he would not harm her, and said that "he kent frae the first she [Jessie] cou'dna live, and if any doctor had come in he [Fleming] would have to answer for her death, for she would have told." Mrs. M'Lachlan was terrified, and did not know what to do. He told her that her life was in his power, as, if she informed upon him, he would deny it, and charge her with the murder; but if both of them kept the secret, no one could discover by whom it was done. "He said that the best way would be for him to say that he found the house robbed in the morning, and to leave the larder window open." With this view he gave her the dresses, telling her to put them out of the way. He then dragged the body "by the oxters" into the bedroom, and, having "dichted up" the kitchen, burned certain things (including his shirt) in the fire, and changed his clothes. He went out to the cellar for coals, which he put on the fire. The door bell rang, and Fleming bade Mrs. M'Lachlan answer it. She refused, and he went up to the front door himself. It was the milkboy. "The old man took no jug up with him. He was in his shirt sleeves when he went up, but in a coat when he came down again. He brought no milk with him." He then gave her the plate, saying she could either pawn it or dispose of it along with the dresses. At half-past eight old Fleming let her leave the house, unlocking for her both the back and the lane doors, and Mrs.

M'Lachlan, carrying the plate and dresses in a bundle, went home, and was admitted by her lodger, Mrs. Campbell.

The reading of this startling document occupied forty minutes, and its effect upon most of those present in Court may well be imagined. No one knew what would happen next—would Lord Deas defer sentence so that the truth or falsehood of the prisoner's statement might be investigated by the Crown, or would his lordship himself question her upon it there and then? Lord Deas, however, was equal to the occasion, unprecedented though it was. After a brief pause, his lordship addressed the prisoner in terms to which the epithets "harsh and unmerciful" were later in some quarters applied. He described the murder in the manner in which he conceived it to have been committed, and informed the pannel that he entirely concurred in the verdict delivered by "as attentive and intelligent a jury as ever I saw in the box."[1] With regard to her statement, his lordship said that, in his experience as counsel both for and against prisoners, and also as a judge, he never knew an instance in which the statements made by them after conviction "were anything else but in their substance falsehoods." "It is," said he, "my imperative duty, after what has been now stated deliberately in writing for you, to say that there is not upon my mind a shadow of a suspicion that that old gentleman had anything whatever to do with that murder." The statement, continued Lord Deas, "conveys to my mind the impression of a tissue of as wicked falsehoods as any to which I ever listened, and in place of tending to rest any suspicion against the man whom you wished to implicate, I think if anything were awanting to satisfy the public mind of that man's innocence it would be that most incredible statement which you have now made." On the latter point, at least, Lord Deas, as we shall soon see, was totally mistaken. His lordship having repeated his concurrence in the verdict—

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1 According to the report of the trial, the following were the only occasions when the jury verbally manifested the attention and intelligence thus commended by his lordship:—(1) When they pointed out that old Fleming had stated his age at seventy-eight; (2) when they asked for the plans to be laid before them; and (3) when, upon a question arising between Mr. Clark and the judge regarding the accuracy of the latter's notes of Sarah Adams' evidence, "one juryman intimated that he thought the answer was qualified as stated by Mr. Clark. 'Ay?' said Lord Deas interrogatively; whereupon the juror sat back with a red face" (*Daily Mail* report). In none of these instances was the jury's intelligence appreciated by the bench.

"indeed no other verdict would have been consistent with the ends of justice"—formally pronounced sentence of death, adjudging the pannel to be executed on the 11th day of October next, and concluding with the prescribed official recommendation to the Divine mercy. Whereupon the doomed woman in the dock exclaimed, "Mercy! aye, He'll ha'e mercy, for I'm innocent!" The prisoner was then removed, and the Court rose.

In commenting on the result of the trial, Sir Archibald Alison remarks—

> She had not a fair trial; the minds of the jury were made up before they entered the box. This was proved by their bringing in a verdict in nineteen [fifteen] minutes, in a case where the evidence had occupied three days. There was a miscarriage of justice; but it arose from the publicity of the proceedings, not their secrecy. A calm consideration of the case would have led to a verdict of the theft proven, but the murder not proven—which was substantially that at which the Home Secretary arrived after the country had been convulsed on the subject, and a great deal more evidence had been taken with closed doors.[1]

The result of the trial was variously received by the Press. The *Herald* was almost alone in its enthusiastic expression of whole-hearted approval.[2] Other newspapers, as we have already indicated, took the opposite view, and animadverted with greater freedom than discretion upon the manner in which judge and jury had discharged their respective duties. But the more general opinion undoubtedly was that, regard being had to the perplexing circumstances of the case and the fresh element introduced into it by the prisoner's statement, it would be unsafe without further inquiry to carry out the irrevocable sentence of the law. The newspapers of the day contained many just and temperate comments upon the trial, but consideration of space only permits the quotation of the following excerpt from a leading article in the London *Daily Telegraph*:—

> No tittle of evidence, strange to say, was brought forward to show the previous relations between Mr. Fleming, senior, his family, the

[1] *Autobiography*, ii. 507.

[2] A candid correspondent thus admonished the editor of that journal—"You, sir, are a partisan, and view everything in a false light—very much in the manner of the poor Anderston donkey on whom some person had very wickedly put green spectacles, when the animal quite innocently commenced to eat shavings, thinking them grass. This, sir, is what you are doing—you see everything through the medium of these celebrated spectacles introduced into Court on the nose of 'the old gentleman,' Fleming."—*Glasgow Herald*, 30th September, 1862.

servants, the deceased woman, or the prisoner. The one circumstance clearly established in his favour was that at the time of the murder he stood in no obvious want of money. The single fact indisputably proved against the prisoner was that she was in possession of some of Jessie M'Pherson's property immediately after the commission of the crime; but there was nothing further to connect her with it. On this fact, or rather presumption, the Glasgow jury have found her guilty. Upon her conviction she made a fresh statement through her counsel, to the effect that it was true she had been in the house on the night of the murder, that during her absence to purchase drink the deed had been committed by old Mr. Fleming, and that afterwards she had been bribed to silence. This statement the judge characterised as a tissue of falsehoods. Now, we have no wish to impugn the justice of either the Scotch jury or of Lord Deas. It is certain that Jessie M'Lachlan was in some form or other an accomplice, whether after or before the fact we do not say. It is impossible, however, to believe, on the evidence before us, that the prisoner left her home with the deliberate intention of killing Jessie M'Pherson, and almost as difficult to credit that the crime was committed by her, alone and unassisted. An awful mystery still hangs over this strange tragedy—a mystery which the present trial has failed to clear up. It has been proved, indeed, that the prisoner is guilty of some participation; but till it is proved to what degree her guilt extends, and whether she is the sole or principal criminal, we cannot think the sentence of the law can be justly carried into effect. There must be more inquiry before Jessie M'Lachlan should be sent to her last account as the murderess of Jessie M'Pherson.

The public excitement which marked the opening of the trial and attended the progress of the case reached its highest pitch on Saturday afternoon on the publication of the charge, the verdict, and the prisoner's statement.[1] The newspaper offices were besieged, the demand for copies, continuing into the small hours, is said to have exceeded all previous records, even that occasioned by the famous trial of Madeleine Smith. Some idea of the popular ferment may be gathered from the following notice in the *Daily Mail*:—"The gentleman who, in the scramble in the crowd in front of our office, shortly after eight o'clock on Saturday evening, lost one of the skirts of his coat can have the lost skirt returned to him on applying at our office."

The first question naturally suggested by the prisoner's statement was as to the time when and the circumstances in which

1 "In a recent number we stated that several persons had become insane by brooding over the wrongs of Mrs. M'Lachlan, and had been removed to Gartnavel Lunatic Asylum. In addition to these we learn that cases of extreme nervous irritability, arising from the same cause, have occurred in the private practice of medical gentlemen: and, finally, that a female pauper in the Town's Hospital has taken the matter so much to heart that she has gone mad too."—*Glasgow Herald*, 10th October, 1862.

it had been made by her. Messrs. Dixon, Strachan & Wilson, the agents for the defence, hastened to satisfy the public upon this point. On Saturday, 20th September, immediately after their client's conviction, these gentlemen addressed to the local Press a letter[1] giving this information, which appeared in all the Glasgow newpapers on Monday, the 22nd. In it the agents stated that when they first visited Mrs. M'Lachlan in prison she did not know that old Fleming had been liberated, and insisted to them "that Mr. Fleming would surely clear her." At a subsequent interview, upon her repeating that expectation, the agents informed her that the old man had been discharged from custody, which she refused to believe. The prison officials would give her no information, so she sent for her husband, from whom she learned that such was the fact, and told him to inform her agents that she had a communication to make to them. At this time the indictment had not been served—it was not served till 30th August—and the agents were not aware of the evidence that might be brought against her or of the names of the Crown witnesses. No information whatever relative to any part of the case had been communicated to Mrs. M'Lachlan by them. Mr. Wilson visited her accordingly on Tuesday, 12th August, and to him she verbally gave the substance of the statement. Mr. Wilson informed Mr. Dixon, who went next day (13th) to see her on the subject, when she repeated her statement to him, of which he took notes at the time. "From these notes taken by Mr. Dixon on this occasion, and from further conversations with her, had by Mr. Dixon and Mr. Strachan together, in regard to details, the statement which was read to-day was written out." It was written out in her own words, and was intended for counsel's information in consulting as to the course to be taken upon it. After careful consideration of the case against her, counsel advised the agents not to admit that she was present in the house by putting in the statement as a special defence. On the last day of the trial, however, Mrs. M'Lachlan sent for her counsel and agents before the Court met, and insisted that the statement should be read in open Court.

The publication of this letter provoked violent discussion, as indeed did every matter relating to this extraordinary case. Those newspapers to whom the innocence of Fleming was an

[1] See Appendix I.

article of faith did not hesitate to denounce the whole affair as a cunning device of the agents to save their client's neck. As these gentlemen were well known and respectable members of their profession, and, as such, had a reputation to lose, it was obvious that some other explanation of their conduct must be found. So their good faith was tacitly admitted; and the ground was shifted to the question of the state of Mrs. M'Lachlan's knowledge as to the case against her at the time when she made her statement. To this important point we shall return when we have to consider her statement in the light of the fresh evidence afterwards adduced in its support.

Sir Archibald Alison, whose intimate knowledge of the case lends great weight to his opinion, writes as follows:—

> This statement bore the mark of truth; and as it coincided in a remarkable way with the evidence, and explained much in the case which was otherwise inexplicable, it made a prodigious impression, and led to meetings in Glasgow and all parts of Scotland, praying the Crown to stay execution, and order further inquiry. This request was acceded to by Sir George Grey, the Home Secretary; and the investigation, which was also prayed for by the Lord Provost of Glasgow and myself, was speedily commenced, and conducted partly before me and partly before Mr. Young, afterwards Solicitor-General, who was appointed Commissioner by the Home Secretary to conduct the investigation.[1]

Meanwhile that large section of the public who either believed her innocent or held that the evidence against her did not warrant a conviction, had ample opportunity of expressing their opinion. Two memorials to the Home Secretary were prepared, one by Mrs. M'Lachlan's counsel and agents, setting forth the legal grounds upon which they craved a respite of the sentence and an inquiry into the case by the Crown authorities in Edinburgh (of which, unfortunately, we have been unable to obtain a copy), and another, intended for signature by the general public. The latter was in the following terms:—

> Unto the Right Honourable Sir George Grey, K.C.B., Her Majesty's Principal Secretary of State for the Home Department,
>
> The Memorial of the undersigned inhabitants of Glasgow and its neighbourhood,
>
> Humbly showeth—
>
> That in the case of Jessie M'Intosh or M'Lachlan, who is at present confined in the Prison of Glasgow, under sentence of death, your memorialists respectfully submit—
>
> 1st. That, on a careful perusal of the evidence laid before the jury, they feel satisfied that the same does not warrant the verdict returned.

[1] *Autobiography*, ii. 504-505.

2nd. That in the peculiar circumstances of the case they deem it imperative that an inquiry be made by the Crown into the whole matter, and particularly the statement of Mrs. M'Lachlan, which your memorialists are assured was made by her on the 13th of August last, before the precognition of the witnesses was completed, and which statement was not known to, or in any way brought under the notice of, the jury before their verdict was returned.

3rd. That this inquiry is the more necessary because, as your memorialists are informed, additional evidence has been discovered since the trial, which, if previously known, would, in all probability, have materially affected the issue.

4th. That in the meantime a respite of the sentence be granted; and, upon the above inquiry being made, that the Crown be graciously pleased to interpose further in the case as shall appear just.

And your Memorialists, as in duty bound, will ever pray.

Thirteen hundred subscription sheets, each affording space for ninety names, were circulated throughout the city, and the prisoner's agents received applications for additional copies from all the principal towns in Scotland, and even from England. On Friday, 26th September, "a preliminary meeting of parties favourable to holding a public meeting to memorialise the Home Secretary to delay the execution of Mrs. M'Lachlan, now under sentence of death, until a further judicial investigation be made into the whole circumstances of the case," was held in the Religious Institution Rooms. Councillor Clark presided over a crowded meeting, notice of which had been given by advertisement. Even the *Herald* devoted three columns to a report of the proceedings. It was resolved to call a public meeting of the inhabitants to consider the whole matter; and a large committee of "representative citizens" (including several members of Town Council) was appointed to carry out the necessary arrangements and to decide as to sending a deputation to wait upon the Lord Advocate and Sir George Grey. The same day the following important letter was written by Professor (afterwards Lord) Lister[1] to the editor of the *Herald*:—

Sir,—I have been surprised to see my name figuring in your columns in connection with the Sandyford murder case. It is true that I have privately expressed the opinion that the medical features of the tragedy are in remarkable accordance with the prisoner's statement; but I have given no warrant for the public appearance of that opinion.—I am, &c.,

JOSEPH LISTER.

17 Woodside Place, Sept. 26, 1862.

[1]Then Regius Professor of Surgery in Glasgow University. It will be observed that this distinguished authority differs in opinion from his colleague and successor, Dr. Macleod.

We also read that in Sandyford Church "a most eloquent and admirable discourse was preached last Sabbath forenoon by Dr. M'Duff with reference to this case of murder engaging so much attention. He showed how the smallest ingredients sometimes brought home, under the eye of Providence, the surest results of guilt." The reverend doctor was evidently no "M'Lachlanite." Whether or not old Fleming personally profited by this discourse is not recorded; but from what was stated in several newspapers it would appear that the old gentleman had not much inducement to linger in Glasgow. On leaving the Court after giving his evidence, he was assailed by groans, hoots, and hisses from the crowd, by whom he would have been roughly handled had he not made his escape in a cab. On his seeking refuge at Dunoon, "popular indignation followed him thither, and this usually quiet and decorous place" became the scene of more hostile demonstrations. On one occasion, being recognised after a visit to the local barber, he was actually stoned; and the unfortunate barber only appeased the fury of the crowd by throwing into the sea the shaving-tackle employed upon his unpopular customer. This scandalous persecution seems to have been long continued, the old man being mobbed at Greenock so late as the end of November. Nor was he the only sufferer; innocent strangers of similar venerable aspect were, by a regrettable error, pursued and hustled in the streets. One paper, however, gives a different and less exciting account of his condition after the trial—

James Fleming at Innellan.—We learn that old Mr. Fleming is at present residing at this favourite watering-place. It is said that he is quite at home, reading with deep interest the various comments of the newspapers on the result of the recent trial. We also hear that letters from various parties pour in upon him daily.

This is the last we shall see of old Fleming; let us hope that his position was rendered less painful by requests for autographs and the perusal of his daily *Herald*.[1]

1 So prominently had the editor identified the *Herald* with the cause of old Fleming that a correspondent inquired if it was the fact, as he had been credibly informed, that Mr. John Fleming was connected with, or had sufficient influence to direct the course adopted by, that journal. The editor replied that Mr. John Fleming had not then, and never had, any connection with the paper, and was "totally unknown, excepting by name, to the editor and to every member of his literary staff."—*Glasgow Herald*, 8th October, 1862.

Meanwhile, in almost every town throughout the country, meetings were held in support of the petition, and on 29th September the public meeting before referred to took place in Glasgow. "The City Hall was crowded to overflowing, and large numbers were unable to gain an entrance." The chairman intimated that up to the time of speaking nearly 50,000 signatures had been adhibited to the petition in that city alone. A letter from the Lord Provost was read intimating that he and Sir Archibald Alison, Sheriff of Lanarkshire, had addressed a joint communication on the subject to Sir George Grey, praying for an inquiry; several lengthy speeches, some of them relevant to the matter in hand, were made; and resolutions as to the necessity for further investigation, the memorialising of the Home Secretary, and the appointment of a deputation to wait upon him and the Lord Advocate thereanent, were unanimously carried. The same day a crowded public meeting was held at Edinburgh, in the Queen Street Hall, numbers being unable to gain admittance, when similar resolutions were agreed to. "In the course of the proceedings the chairman intimated that the Rev. Dr. Guthrie, who was unavoidably absent, had expressed his sympathy with Mrs. M'Lachlan, and had recommended every man and woman in Edinburgh to sign the petition in favour of her respite."

On 30th September an investigation into the case was commenced by Sir Archibald Alison and the Procurator-fiscal, on instructions from the Lord Advocate, when certain witnesses were examined. The inquiry, which was held in private, was continued from day to day. On 3rd October the deputation appointed by the public meeting waited on the Lord Advocate in Edinburgh, who assured them that the fullest possible investigation would be made into the whole case. The chairman of the meeting had received a letter from Sir George Grey to the effect that it was quite unnecessary for the proposed deputation to go to London, as the Home Secretary was in communication with the Lord Advocate with a view to a full inquiry into the facts, for which ample opportunity would be given.

On Saturday, 4th October—a week before the date fixed for the execution—the Lord Provost received the following letters from the Home Office:—

Whitehall, 3rd Oct./62.

My Lord,—I am to signify to you the Queen's commands that the

execution of the sentence of death passed on Jessie M'Intosh or M'Lachlan, now in Glasgow Jail, be respited until Saturday, the 1st day of November next. I am, my lord, your lordship's obedient servant,

GEORGE GREY.

The Lord Provost of Glasgow.

Whitehall, 3rd October, 1862.

My Lord,—I am directed by Secretary Sir George Grey to inform you that he has thought it right under all the circumstances to advise Her Majesty to respite the execution of Jessie M'Lachlan until Saturday, the 1st of November next; and he requests that you will have the goodness to cause it to be clearly explained to the convict that the respite has been granted only for the purpose of allowing time for some further investigation, and that if that should not confirm the truth of the statement made by her as to her share in the transaction, no hope can be held out to her of the commutation of the capital sentence.—I have the honour to be, my lord, your obedient servant,

H. WADDINGTON.

With reference to the inquiry then in progress by the Sheriff and Procurator-fiscal, the opinion was very generally expressed—and even shared by the *Herald*—that no investigation conducted by local officials, whatever their integrity, who had been connected with the recent prosecution would be satisfactory to the public or consistent with the ends in view. Accordingly, the announcement, on 13th October, of the appointment by the Home Secretary of Mr. George Young, Sheriff of Haddington,[1] as Commissioner, under whom the inquiry would be conducted, was welcomed by both parties. Mr. Young's position as leader, after the Lord Advocate (Moncreiff) and the Solicitor-General (Maitland), of the Scots bar eminently fitted him for the discharge of this delicate and anomalous office. On 17th October the Crown Commissioner entered upon his duties, the scope of which is defined in his letter to Sir George Grey of 15th May, 1863.[2] It seems unfortunate that the Commissioner "had no power to compel the attendance of a witness or to administer an oath," his function being purely extrajudicial. Within the limits appointed by his commission, however, Mr. Young

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1 George Young, Lord Young (1819-1907), was called to the bar in 1840; Sheriff of Inverness, 1853; Sheriff of Haddington, 1860; Solicitor-General, 1862; Lord Advocate, 1869; raised to the bench, 1874; and resigned, 1905.

2 See Appendix III. (4).

Mr. George Young, the Crown Commissioner.

(*From a contemporary photograph.*)

examined many witnesses, notes of whose evidence were transmitted by him to the Home Secretary, the purport of which we shall afterwards consider. The proceedings were conducted with closed doors, the only persons present besides the Commissioner being the Procurator-fiscal (Mr. Gemmel), as representing the prosecution; Mr. Dixon, as agent for Mrs. M'Lachlan; a shorthand writer, and a clerk. Sir Archibald Alison states that he was requested by Mr. Young to sit with him and conclude the inquiry, but that in view of his (Sir Archibald's) official position as the public officer who had superintended the precognition against the accused, he deemed it better not to do so.[1]

The inquiry was concluded on the 20th, the result communicated to the Home Secretary on the 24th, and on the 28th the following letter was received by the Lord Provost from Sir George Grey:—

Whitehall, 28th Oct., 1862.

My Lord,—I am to signify to you the Queen's commands that the execution of the sentence of death passed upon Jessie M'Intosh or M'Lachlan, now in Glasgow Jail, be respited until further significance of Her Majesty's pleasure. I have the honour to be, my lord, your lordship's obedient servant, G. Grey.

The Lord Provost of Glasgow.

Mrs. M'Lachlan was informed by the Lord Provost, in the condemned cell in the North Prison, shortly before midnight, that a reprieve had been granted. "Will there be naething done on Saturday, then?" she asked, and it was explained to her that the execution would not take place.

However grateful this act, whether of mercy or of justice, may have been to the convict and her supporters, it was bitterly resented by the *Herald*. The editors of that paper and of the *Morning Journal* (obliquely referred to by the former as "the woman's organ") were upon terms reminiscent of the mutual relations of Mr. Pott and Mr. Slurk and the editorial amenities of Eatanswill. The *Morning Journal* had abused both judge and jury with amazing virulence; the *Herald*, though employing less picturesque invective, had been equally severe upon such as dared to question the soundness of the verdict. The "Organ" hailed the respite as a personal triumph; the *Herald* bewailed

[1] *Autobiography*, ii. 505.

it as a public calamity.[1] The discussion was by no means confined to the local Press; the newspapers throughout the country propounded in leading articles opinions no less vigorous than varied, while abandoning their correspondence columns to the amateur lawyer and detective. A notable contribution to the controversy was the lengthy and illogical letter of "Inquirer," published in the *Scotsman* on the morning of the reprieve and honoured by a reprint in the *Times* (4th November, 1862), the writer of which was the Hon. Mrs. Norton. The views of this celebrated lady were in closer accord with those of the *Herald* than with the facts of the case.

On the morning of Saturday, 8th November, Mr. Stirling, the Governor of the North Prison, received the following communication from the Crown agent:—

Crown Office,
Edinburgh, 6th Nov., 1862.

Sir,—I beg to inform you that I have received Her Majesty's conditional pardon in favour of Jessie M'Intosh or M'Lachlan, who was at a Justiciary Court holden at Glasgow in September, 1862, convicted of murder, and sentenced to death for the same, pardoning the said Jessie M'Intosh or M'Lachlan of the said crime, and sentence passed upon her for the same, upon condition of her being kept in penal servitude for the term of her natural life.

I have therefore to request that you intimate such conditional pardon to the said Jessie M'Intosh or M'Lachlan, and acknowledge receipt of the letter.—I am, sir, your most obedient servant,

Andrew Murray, Crown Agent.[2]

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[1] "Trial by jury, the palladium of British liberty, has been subverted. The unreasoning public have been taught that, if they only cry loud enough, they can snatch a convicted murderess out of the hands both of the High Court of Justiciary and of the British Executive. They, or their organs, have denounced the judge as a hard-hearted wretch and bloodthirsty officer of the law; they have stigmatised the jury as idiots or savages; they have yelled execrations into the places of business of these gentlemen; and they have cursed them on the streets and spat upon them in public omnibuses."—*Glasgow Herald*, 30th October, 1862.

[2] The following is a translation of the original Latin text of the remission:—Victoria, by the Grace of God Queen of Great Britain, Defender of the Faith. To all liege men to whom our present letters shall come, greeting. Whereas Jessie M'Intosh or M'Lachlan was, at a Circuit Court of Justiciary, held at Glasgow in the month of September, in the year of our Lord one thousand eight hundred and sixty-two, convicted of murder, and sentence of death was pronounced against her for the same, we, in consideration of certain circumstances humbly represented to us, and of our Royal prerogative, proper motive, Royal clemency, and good pleasure, have remitted, indemnified, and pardoned, and by these presents remit, indemnify, and pardon the said Jessie M'Intosh or M'Lachlan of the said crime and sentence pronounced against her for the same, under condition that she be kept in penal servitude for the term of her natural life. In witness whereof,

Immediately upon receipt of this letter the Governor proceeded to the condemned cell and intimated to the convict her conditional pardon. She received the news with composure, but seemed disappointed at the decision. "And I'm tae be kept in jail a' my days!" was her only comment. On Tuesday, 11th November, she was removed to the General Prison of Perth, there to undergo her commuted sentence.

Mrs. M'Lachlan's dissatisfaction with the *via media* found by the Home Secretary was shared by all the parties concerned; and the question since put, not unreasonably, in similar circumstances was asked, "If the woman is guilty, why is she not hanged; if she is innocent, why is she sent to penal servitude for life?" This anomalous state of matters was the occasion of many weighty articles in the British Press, advocating the desirability of allowing accused persons to give, subject to cross-examination, evidence on their own behalf, and the necessity for the constitution of a Court of Criminal Appeal—needful reforms only of late years effected in England, the latter of which has not yet been extended to Scotland.[1] The popular

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we have ordered our seal, appointed by the Treaty of Union to be kept and used in Scotland, in room and place of the Great Seal of the same, to be appended to these presents. At our Court at St. James's on the 5th day of November, in the year of our Lord, 1862, and of our reign the twenty-sixth. By signature of our Sovereign Lady the Queen above written. Written to the seal, and registered the sixth day of November, 1862. James Hay Mackenzie, Depute-Keeper of the Seal.

1 The unsatisfactory nature of the situation did not escape the notice of that veteran reformer, Lord Brougham. In a letter addressed to Lord Radnor, an extract from which appeared in the *Law Magazine and Review* (November, 1862), Lord Brougham said—"You have lately seen a scandal in Scotland; the agitation over great part of the country on the subject of a conviction for murder. Petitions for pardon, numerously signed, are sent up, and a meeting was held at Glasgow, attended by thousands, to pass resolutions in favour of such an application nominally, but really against the learned judge and respectable jury who tried the indictment. The Home Secretary, in whose department the consideration of such a petition is, happens to be a lawyer; but this is a mere and rare accident. His two predecessors were not; and I do not recollect an instance of a lawyer in practice holding that office. Ought not this and all such cases to be brought before the Department of Justice? But this case, and the scandal of the agitation upon it, in all probability never would have arisen had the attempt I so often made succeeded, to extend my Evidence Act to defendants in criminal cases, on their desiring to be examined, and, of course, subjected to the sifting of cross-examination. It is plain that the woman convicted would have desired to be examined, and her sifted testimony would either have led to an acquittal or confirmed the verdict; in either case the public mind would have been satisfied."

discontent following upon the decision of the Home Office found vent in a memorial to the Prime Minister, craving Lord Palmerston, *inter alia*, "to make public the causes and the evidence which have led to the result of the prisoner's relief from the capital sentence." The memorial, which had a pronounced "Flemingite" flavour, was, according to the *Herald*, signed by 2709 citizens of Glasgow. Its receipt was formally acknowledged by Lord Palmerston, but we hear nothing further of the matter.

Meanwhile the legal advisers of old Fleming, Messrs. Smith & Wright, writers, Glasgow, had not been disposed to "let sleeping dogs lie." On 31st October, after the granting of the reprieve, they addressed to Sir George Grey, on behalf of their venerable client, a request that he would "communicate his opinion that the alteration upon the sentence was not intended to lead to the inference that, in his judgment, Mr. Fleming was otherwise than innocent of the murder." The Home Secretary, in his reply of 4th November, intimated that he "must decline to express any opinion on the point." On the 7th the law agents wrote again, urging the necessity of a renewed investigation to give their client an opportunity of testing "the truth of any statement which may have been made at the late inquiry tending to criminate him. That inquiry was private, and Mr. Fleming was not represented at it."[1] They also objected to the inference drawn by the public from the fact that, in the first respite, it was stated that there would be no commutation unless Mrs. M'Lachlan's statement was substantiated. The answer of the Home Secretary was as follows:—

Whitehall, 14th November, 1862.

Gentlemen,—I am directed by Secretary Sir George Grey to acknowledge the receipt of your letter of the 7th inst., in which you request that he will order a renewed investigation in reference to the recent

[1] The interests of old Fleming may be said to have been safeguarded in so far that the Procurator-fiscal cross-examined all witnesses adduced by Mrs. M'Lachlan's agent, and himself led such proof as he thought proper in support of the verdict. The Commissioner had intimated that he could not compel any one to attend for examination, and would take the evidence of those who chose to come; but Messrs. Smith & Wright did not apparently see their way to advise their client to avail himself of this general invitation. Further, as was pointed out by the Lord Advocate in the debate in the House of Commons aftermentioned, the question was one between the condemned woman and the Crown alone, and no third party having an interest in her execution could be allowed to step in between her and the Royal prerogative.

murder of Jessie M'Pherson in Glasgow, in order that Mr. Fleming may be afforded an opportunity of adducing evidence to test the truth of any statements which may have been made at the late inquiry tending to criminate him. I am to inform you in reply that Sir George Grey instituted the inquiry to which you refer under the very peculiar circumstances of this case, in order to assist him in deciding whether sufficient doubt existed as to the share which the prisoner, Jessie M'Lachlan, had in the commission of the crime to justify a commutation of the capital sentence. The result satisfied Sir George Grey that the whole facts relating to the case had not been submitted to the jury at the trial, and that sufficient doubt did exist on the point which I have mentioned to justify him in recommending a commutation of the sentence to penal servitude for life. But the result of the inquiry was far from removing all uncertainty, nor could it be justly held to fix a share of the guilt on any other person, especially when such person was not represented at the inquiry. With reference to your present request, it is not in Sir George Grey's power to direct a judicial inquiry to be held upon the guilt or innocence of any person not charged with any offence, especially when, as in the present case, according to what he is informed is the law of Scotland, the person on whose behalf you make the request having been examined as a witness in a criminal trial, cannot afterwards be subjected to a criminal prosecution in respect of the matter of such trial.—I am, gentlemen, your obedient servant,

G. Clive.

Messrs. Smith & Wright, 99 St. Vincent Street, Glasgow.

On the 17th the agents returned to the charge, complaining that the inquiry had "brought suspicion on the hitherto unblemished character of Mr. Fleming in a manner most injurious to himself and his family,"[1] and renewing their demand for the publication of the evidence taken by Mr. Young and the appointment of a Royal Commission. Sir George Grey replied on the 21st by referring the agents to his letter to them of the 14th as the only answer he could give, and the correspondence then closed.

This incident was, as usual, very differently treated by the party organs. The "M'Lachlanite" journals held that old Fleming's agents had by no means improved his position in eliciting from the Home Secretary the reasons which led him to commute the sentence, and expressed the opinion that they would have been better advised to let well alone. The "Flemingite" press, however, waxed exceeding wroth at the aspersion cast by Sir George Grey upon their blameless *protégé*, and unanimously urged the old gentleman to appeal unto Cæsar —as represented by the High Court of Parliament.

Nothing noteworthy is heard of this *cause célèbre* until the

1 With reference to the "hitherto unblemished character" of old Fleming, see Excerpts from Session Minute-book of Anderston United Presbyterian Church, Glasgow.—Appendix III. (3).

following year, when, on Friday, 24th April, 1863, in the House of Commons, Mr. Stirling of Keir, member for Perthshire, moved for copies of the proceedings at the trial of Mrs. M'Lachlan and of the evidence taken at the subsequent private inquiry held at Glasgow by Mr. Young, then Solicitor-General for Scotland. He went over in detail the circumstances of the case, and said that he wished to learn from the Home Secretary what was the prerogative of mercy exercised by the Crown, and to what it extended; whether it enabled the Crown to remit the penalty to a convict, or entitled the Minister of the Crown at pleasure to constitute a secret tribunal or Court of Criminal Appeal, by which the sentences of the Supreme Courts of England and Scotland might be revised and reversed. Mr. Stirling censured the course taken by the Home Secretary and the manner in which the private inquiry had been conducted, and stated that the Fleming family anxiously desired the publication of the evidence on which the Home Secretary had acted, as a belief in the old man's guilt seemed to be implied in the action of the authorities.

Sir George Grey said that, after a minute and careful consideration of the case, he had requested the Lord Advocate to direct an inquiry to be made into the truth of the written statement put in by Mrs. M'Lachlan. In some respects the statement was corroborated by the subsequent inquiry. The impression left on his mind, and it was a very decided one, was that there was sufficient doubt as to the share taken by Mrs. M'Lachlan in the crime to make it inexpedient that the capital sentence should be executed; and, as there was a very strong feeling in Scotland upon the matter, he felt he would have been wanting in his duty if he had not interposed and obtained for the woman the merciful prerogative of the Crown. At the same time, there was no doubt, according to her own statement, that she was an accessory after the fact, and the punishment to which she was now consigned was that which she would have incurred as an accessory after the fact if she had been tried in England. With regard to the evidence taken by Mr. Young, he had no objection to produce it, but he was afraid it would go to establish a precedent for converting the House of Commons into a Court of Criminal Appeal. He had felt in this case that, consistently with his duty, he could not have taken any course other than that which he had pursued. So far as the verdict was concerned, he thought the jury, upon

the evidence tendered to them, could have arrived at no other conclusion; but it must be borne in mind that the statement subsequently read on behalf of the woman was not got up for the occasion, but had been prepared at least six weeks before. He might have said, like Lord Deas, that the statement was a tissue of falsehoods, and refused to have it investigated. He found, however, that there were men of high principle, position, and influence in Scotland who gave credit to that statement, and that the general feeling of the community required its investigation. He had had the advantage of the assistance of the Lord Advocate in conducting the inquiry, but he wished it to be distinctly understood that the sole responsibility of advising the Crown in the exercise of the Royal prerogative rested with him.

Mr. Denman asked the Lord Advocate if it was true that, according to the law of Scotland, a man who had given evidence in a criminal case could not be tried himself;[1] if that was really so, he thought it was an anomaly which ought to be removed.

The Lord Advocate[2] said his opinion undoubtedly was that Fleming, after having been called as a witness, could not have been tried. It was usual to tell a man who was likely to be tried that any statement he might make would be brought against him at a subsequent period. In this case he believed that warning was not given, and his opinion was that, if Fleming had been put upon his trial and the objection taken, he would not have been tried. The woman's original story was so palpably false that, on the best consideration which the late Solicitor-General could give to the case, it was resolved to try her and to take Fleming as a witness. He was asked to aid the Home Secretary in the investigation, and he did so. It was not his habit to interfere with regard to the prerogative of the Crown, and the Home Secretary in such cases communicated with the judge who tried the case. The uniform practice was to use the machinery at the disposal of the Lord Advocate for the purpose of making such investigations, and

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[1] Two interesting and instructive articles upon "Privilege of Crown Witnesses" appeared with reference to this point in the *Journal of Jurisprudence*, 1863, vol. vii., 281-288, 434-445, wherein the subject is exhaustively treated and the various authorities reviewed.

[2] James Moncreiff, afterwards Baron Moncreiff of Tullibole, and the distinguished Lord Justice-Clerk of Scotland, to which office he was appointed in 1869.

he thought that course a proper one, as it was better to have a responsible staff to do that duty than any other person. He related the statements contained in the document read on behalf of Mrs. M'Lachlan to the judge after the verdict, and said it was impossible, when a petition for further investigation was presented, that the Home Secretary could disregard it. The statement of the prisoner was a very material element in the case. As there appeared to be some doubt in the case, he thought the decision finally arrived at a very proper one. At the same time, he doubted the propriety of discussing questions of this nature in the House of Commons.

The discussion was continued by Mr. Muir, Mr. Buchanan, Mr. Dunlop, and Lord Claud Hamilton, who urged the production of the evidence. The Home Secretary said that he would take time to consider the subject.[1]

On 18th May, in reply to Mr. Blackburn, Sir George Grey stated that the papers in the M'Lachlan case would be laid on the table next day.

On 4th June, Mr. Stirling moved for the following returns:— Copies of the letter addressed by Messrs. Dixon, Strachan & Wilson, agents for the convict, to the *Glasgow Herald*, printed in that and other newspapers on 22nd September, and referred to in the Procurator-fiscal's letter to Mr. Wilson of 30th September; the letter or other document addressed to the Secretary of State for the Home Department by the Lord Provost of Glasgow and the Sheriff of Lanarkshire (Sir Archibald Alison) praying for a general investigation, and referred to by the Sheriff; the letter of Dr. George Macleod to the Procurator-fiscal, and forwarded to the Lord Advocate, read before Mr. Young previous to Dr. Macleod's examination on 20th October; the report or reports made on the evidence taken at the inquiry before the Sheriff of Lanarkshire, Procurator-fiscal, and Mr. George Young to the Secretary of State for the Home Department; and the summing up of the evidence taken at the trial by Lord Deas and his remarks on the statement of the convict in passing sentence.

Sir George Grey stated that neither the letter of the agents for the prisoner to the *Glasgow Herald* nor that of Dr. Macleod was in his possession at the time the return was moved for.

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1 A full report of this debate will be found in the *Times*, 25th April, 1863; see also 3 *Hansard*, clxx., 681-703.

The former he had never seen—the latter he had only inquired for in consequence of the notice of the honourable member. The letter of Dr. Macleod was a private letter to the Procurator-fiscal, which he was willing to show to Mr. Stirling, but it was not material or important enough to be made the subject of a separate return. He objected to produce the reports of the Sheriff of Lanarkshire and Mr. Young. They were mere opinions written in accordance with the general rule for the information of the Secretary of State. He was not in possession of the summing up of Lord Deas, and could only produce the report in the newspapers, for the accuracy of which he could not vouch. On the whole, if Mr. Stirling was willing to take the letter by the Sheriff of Lanarkshire and the Lord Provost of Glasgow he had no objection to produce it.

Mr. Stirling said he would limit his motion to that letter.[1] The motion was then agreed to.

With reference to the reports above referred to, Sir Archibald Alison states—

> I wrote with great care a long memorial on the case, both as it had come out in evidence at the trial, and as it was modified by what had subsequently appeared before the Royal Commission. As I had become convinced of the woman's innocence of the murder, my memorial assumed the form of an elaborate pleading in her favour. I gave it to Mr. Young, and he sent it, with his report, to the Home Secretary. It was not without its effect; for when the agents for the prisoner went to Mr. Waddington, the chief under-secretary in the Criminal Department in the Home Office, and a most able man, to enforce the woman's case, he said—"Gentlemen, you need say nothing. I have read Sir Archibald's memorial; it is unanswerable. The prisoner was an accidental and constrained witness of the murder, but not an actor in it. She can never be hanged; but as she concealed and adopted it, she must be severely punished." She was accordingly pardoned by the Crown for the murder, on condition of suffering penal servitude for life for her accession to the murder after the fact. Thus the poor woman's life was saved. And there is no event in my life to which I look back with more pleasure than the hand I had in her deliverance; and that the best and most elaborate law paper I ever wrote was composed in my seventieth year, to shield a prisoner threatened with death from what would in the circumstances have been a judicial murder.[2]

What was the purport of the Crown Commissioner's report we have no means of judging further than the fact that it was followed by a commutation of the prisoner's sentence.

The papers moved for having been duly printed, Mr. Stirling,

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1 A copy of the letter referred to will be found in Appendix II.

2 *Autobiography*, ii. 505-506.

on 26th June, in a speech of considerable length, called attention to the M'Lachlan case, and complained that the course pursued by Government had been most unjust to Mr. Fleming and his family. Mr. Dunlop entered into a history of the case with a view of proving that there had been a miscarriage of justice, and that Fleming, instead of Mrs. M'Lachlan, ought to have been tried.

The Lord Advocate defended the course which Government had taken, and contended that it was contrary to the law of Scotland to place a person on his trial who had given evidence in a Court of justice upon a case in which he was supposed to be an accomplice. The case was originally considered very maturely by a very competent authority, the late Solicitor-General.[1] Whatever remarkable features there might be in the evidence of Fleming, it was perfectly clear that the woman M'Lachlan was cognisant of the events of that night, and she had then made no statement criminating any one else. Therefore the Solicitor-General had declined to put Fleming at the bar. The Secretary of State had not said that the prisoner was innocent or that Fleming was guilty; he simply said that in the doubt and mystery which attended this case it was better not to break into the house of life, but to commute the sentence to the next highest punishment, and leave it to time to unravel a mystery which all his care and patience had not enabled him to unveil.

Sir George Grey also justified the course taken by the Government, and said he had intended no disrespect to Lord Deas or to the Lord Justice-Clerk in instituting the late inquiry. He believed that the evidence given at the trial fully warranted the verdict of the jury. Mr. Sergeant Piggot suggested that if capital punishment were to be continued there ought to be established a mode by which an appeal might be made to a properly constituted tribunal. After some remarks by Mr. Blackburn, Mr. Muir expressed a strong opinion that there was nothing in Scots law to have prevented Fleming from being tried, notwithstanding that he had given evidence in the case. The subject then dropped.[2]

Meanwhile the M'Lachlan papers—the "Sealed Book" of

[1] Edward Francis Maitland, raised to the bench in 1862 as Lord Barcaple, when he was succeeded as Solicitor-General by Mr. Young.

[2] A full report of this debate will be found in the *Times*, 27th June, 1863; see also 3 *Hansard*, clxxi., 1531-1560.

the *Herald*—had at length been given to an ungrateful world, which, judging from its opinion as represented by the Press, was still dissatisfied.[1] True, the *Morning Journal*, and such newspapers as shared the views of "the woman's organ," claimed that the additional evidence corroborated Mrs. M'Lachlan's statement so far as was, in the circumstances, possible, and that its authenticity was thereby "most thoroughly established"; but the *Herald* and its followers described the inquiry as "unprofitable," and the evidence which it produced "worthless rubbish," contradictory rather than confirmative of that famous document. To this party the statement remained "an artful fabrication, promulgated by a murderess when in sight of the gibbet."

Whether or not such be in fact the case, the evidence certainly throws upon this dark matter some fresh light, to which we may now very briefly refer. As, according to the Commissioner, "there was no attempt at order or arrangement in taking the evidence," we shall here consider it in relation to the various parts of the case upon which it bears.

Messrs. Dixon, Strachan, and Wilson were examined at great length regarding the time when and the manner and circumstances in which the prisoner's statement had first been made. They stated that they had not then seen any of the Crown witnesses except those at Hamilton, and knew nothing of the milkboy incident until they heard it from the woman herself. It was in consequence of her statement that the boy was searched for and precognosced. The whole of the additional details were written upon the notes before these were taken to Edinburgh for consultation with Mr. Clark before the trial. The testimony of the agents was supported by that of Mr. Wilson's clerk, Mr. Brand (afterwards Sir David Brand, Sheriff of Ayr), and Mr. Gordon Smith, both of whom saw the original written notes, and Mr. Galbraith, who heard their contents. The two latter gentlemen were writers in Glasgow.

But the *Herald* was still sceptical, and in a leading article (1st June, 1863) more than insinuated that these six professional men were not telling the truth, because of "discrepancies" in their evidence regarding "the outward shape and form which it [the statement] assumed at the very moment of its birth." Mr.

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1 The papers relating to the case, ordered by the House of Commons to be printed, will be found in Appendix III.

Dixon, however, next day wrote to the editor a letter containing a complete explanation of the different expressions used by the witnesses in describing the *form* of the original notes.[1]

Two women who had occupied the same cell as the prisoner before the trial deponed, *inter alia*, to the effect of the news of old Fleming's release upon Mrs. M'Lachlan, and to sundry conversations had by them with her while in prison. Mr. John Fleming, re-examined, stated that in the open wing of the sideboard, from which the missing plate had been taken, there were a solid silver teapot and stand and cream jug. The sugar basin of the set was in an open press in the parlour. In the same press he kept whisky, to which both the old man and the servant had access. He might have remarked to his sister, "How quickly that bottle goes down!" For some years his father had not been in the habit of rising till after nine, except on Monday mornings. Witness never knew of any friend staying all night with the deceased. John Fleming, junior, was also re-examined. He thought that the servant was dead so soon as his grandfather said that she had "cut," and that her door was locked. He could not believe she would go away, having been so long with the family. There were two silver tea services in the house; the other was in the press in the lobby.

Robert Stewart, the occupier of No. 16 Sandyford Place, next door to Mr. Fleming's house, said he went to bed on the night of the murder about eleven o'clock and fell asleep at once. He was awakened by the scream of a human voice, which he connected in his own mind with Mr. Fleming's house. It might have been a quarter of an hour, but was not later than two hours after he had fallen asleep, as there was no light—it was as dark as when he went to bed. The sun rose at 3.41 that morning. Mary M'Intyre said that on the night of the murder she was returning to No. 8 Sandyford

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1 "I took with me," he writes, "only a sheet of ordinary blue scroll paper, that is, two leaves folio, which I folded and refolded, bookwise, into eight leaves of about six inches in length and three in breadth; and in that form I took the notes." Mr. Dixon further stated that in drafting and making notes he habitually used "an unusually small and close, yet perfectly clear hand, which leaves room, notwithstanding, for interlineations and alterations," and offered to produce drafts prepared by him in the ordinary course of business "containing over 4000 words per sheet of such paper as I used." This to meet the *Herald's* unconcealed disbelief that the *matter* of the statement could have been contained in one sheet of paper.

Place by Elderslie Street, shortly after eleven o'clock, when, at the corner of the back lane, she saw Mrs. Walker and Agnes Dykes (later examined) talking together near a lamp. She at the same time saw a woman in a grey cloak or shawl pass into the lane. When she reached the opening into Sandyford Place she saw three or four people standing there, who appeared to be talking of something that had attracted their attention. As she came up she heard one of them say, "I think it came from that house where the light is." They then passed on in different directions. When opposite No. 17 she heard "a low wailing noise, just like the moaning of a person in very great distress." She saw that the two windows in the front area were lighted. There was no light in the houses on either side. Mrs. Walker said that the same night she was standing talking to Agnes Dykes in Elderslie Street at about a quarter-past eleven when she saw a woman in a grey cloak go into the lane behind Sandyford Place. She saw a second woman, whose cloak resembled that of Mary M'Intyre, pass at the same time. Witness was in Mr. Fleming's house on Monday afternoon, 7th July, about five o'clock, shortly after the discovery of the murder. Mr. John Fleming told her that the servant's bedroom door had been locked inside, and from that witness understood that she had committed suicide. Witness also narrated a conversation then had by her with old Fleming regarding the affair. Agnes Dykes corroborated Mrs. Walker as to seeing the woman go into the lane. She had been shown the prisoner in the North Prison—"I then thought and still think that she is the woman referred to." Witness knew the deceased well. On one occasion, a month before the murder, Jessie told her that she had lent £4 to an old servant of Mr. Fleming; that she had asked it back and "got the height of abuse"; but that she was going to ask it again, "come what would."

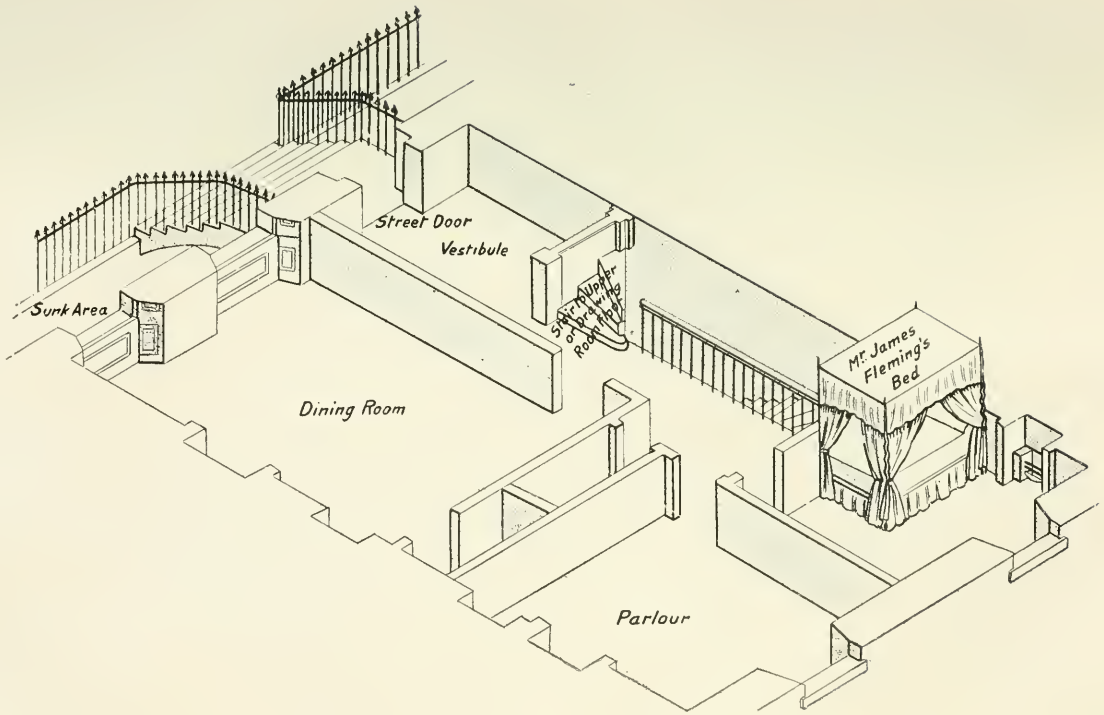
Margaret, Jessie, and Peterina M'Lean—"the three jolly maidens" of the *Herald's* ridicule—left their brother's marriage party at Partick at half-past three on the morning of Saturday, 5th July. Passing through Sandyford Place on their way home about four o'clock their attention was attracted by the singing of birds among the trees in front of the houses there. Stopping to listen, they observed a light in the window to the west of the door of No. 17, and through three open laths of the venetian blind they saw a gasalier lighted in the

centre of the room. They wondered why the gas was burning at that time in the morning.[1]

Donald M'Quarrie, the milkboy, retold the story of his celebrated call. On Saturday morning the chain was on the door when he went to it, and old Fleming took off the chain before he opened the door. Fleming was then "very well dressed, better than I ever saw him dressed before." His employer, George Paton, looked at his watch after the bell had been answered, and said that it was just twenty minutes to eight o'clock. Witness had never called so late as eight. He called again on the Saturday afternoon, and on the Sunday and Monday mornings at the usual hour; on all these occasions old Fleming opened the door and said he required no milk. George Paton, the milkman, corroborated. He was with his cart in the street, and did not see who opened the door, but he asked the boy at the time by whom the milk had been refused, and was told it was old Fleming. Witness called at the house again on the Saturday afternoon and on the Sunday and Monday mornings. On each occasion the boy told him that old Fleming answered the door and refused the milk. Witness thought this strange.

Mary Brown, a girl of sixteen, deponed that she was occasionally employed by Jessie M'Pherson to wash the steps and to go errands. She called at Fleming's house by appointment of the deceased on the Saturday morning about nine o'clock. Old Fleming opened the door upon the chain. He admitted her, re-chained the door, and asked her to wash a portion of the upper hall floor, giving her a pail of water and a piece of flannel for that purpose. Fleming was dressed in black clothes, and had on a "Sunday" coat. She noticed one footmark in the hall between the bedroom door and the head of the kitchen stair. The mark appeared to have been covered with soot. The washing occupied ten minutes, the old man remaining beside her all the time; when she had finished, and was about to go downstairs to empty the pail, he told her to leave it where it was. Mary, if (as the *Herald* maintained) a juvenile

1 When and by whom was the dining-room gas lit? The prisoner, on the Crown theory, slept with her victim till 4 a.m., when she arose, murdered her, and rifled the house. It was then broad day—"a bonnie, clear morning"—and the silver in the sideboard would be sufficiently visible. On the other hand, Fleming, if her statement be accepted, was more than once upstairs in the course of the night.



Isometrical view of street flat of 17 Sandyford Place.

Sapphira, was at least an artist in fiction, for she concludes with this realistic touch—"He catched a grip of me by the hand and put his hand on my waist, and said I was a nice girl." He then dismissed her, with a sixpence for her trouble. She told her mother about this on Wednesday, 9th July.[1] Mrs. Brown, mother of the last witness, said that her daughter mentioned the matter about the end of the week in which the murder was reported in the newspapers, and that witness had told her to say nothing about it, lest she should get into trouble.

Charles O'Neil, the architect who examined and prepared plans of the *locus*, deponed, with reference to the blood stains in the bedroom marked Q on the plan, that from the elongated spurts or splashes of blood on the hearthstone, directed towards the window and towards the wall, outside the washed area of the floor, he inferred that something heavy had fallen at that place. They were splashes thrown from a certain point in one direction. There were two marks of blood 3 or 4 inches square inside a press door in the lobby at the top of the door, the height of which was 6 feet 9 inches. They were not finger marks, but appeared to have been made by a bloody cloth. The door opened outwards to the passage.

The three Crown doctors were re-examined with reference to their opinion as to whether Mrs. M'Lachlan's statement was contradicted by all or any of the appearances presented by the body or the premises as seen and examined by them.

Dr. Fleming said that he thought the wounds upon the face had been inflicted when the deceased was lying on her back. It was possible, but, in his view, improbable, that they were caused while she was standing on her feet. The improbability would be diminished if she were sitting when struck. In other respects the statement was, so far as he could judge, entirely consistent with what he had observed. The appearances from which, in the joint report, it was inferred that there had been a struggle in the kitchen were equally accounted for by the statement. The report was drawn up by his colleague, Dr. Macleod, who had inserted that phrase.

1 On one point at least Mary seemingly lied; she stated that "she was at present employed in Galbraith's Calender, in St. Vincent Street," and that she had been there for about six weeks. The *Herald* published a communication from that firm to the effect that "there was no such person employed by them under that name at that time or previous to it."

Dr. Watson said he considered it was quite possible that the wounds referred to had been inflicted while the assailant and the victim were both in a standing position. It was by no means necessary that the deceased was lying on her back with her face up at the time. The wounds would probably fell and stun her. He saw nothing to indicate that a struggle had taken place in the kitchen. The statement was consistent with all the appearances excepting the wounds on the wrists, which were not explained. These, for surgical reasons, he was of opinion could not have been inflicted with the cleaver. They were probably made with a pocket or table knife. He also thought that the body had been dragged from the kitchen to the bedroom by the feet.[1]

Dr. Macleod was the next witness, but before his examination began a letter written by him to Mr. Gemmel, the Procurator-fiscal, was read. The first question put by the Commissioner has reference to a conjecture by Dr. Macleod regarding the blood stains on the inside of the press door, which it is evident he had suggested to the Fiscal were marks of bloody fingers. Witness now said it was very difficult to make out whether they were finger marks or the mark of a cloth. He admitted that the experts who examined the marks were not agreed as to how these were produced. That conjecture was one of which he was not disposed to take any account.[3] It was

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[1] The body, when found, lay face downwards, with the head towards the door and the feet towards the window, the clothing being gathered up over the head; and its position in the narrow space between the table and the bed suggested that it had been dragged into the room feet first. Dr. Macleod, however, in the article on the case contributed by him to the *Glasgow Medical Journal*, as before mentioned, observes —"This was, in the writer's opinion, to be explained thus—the body was drawn in the position in which it lay after the completion of the murder, *i.e.*, with the face downwards, by the head and shoulders, into the bedroom; and these portions, being the heaviest, first thrown down, and then the legs or lighter part carried round to clear them of the door. In this way the feet would be towards the window, and the twisting movement would gather up the clothes about the trunk."

[2] This is the letter moved for by Mr. Stirling on 4th June, as before narrated, which Sir George Grey declined to produce as not of sufficient importance.

[3] That being so, it is remarkable that Dr. Macleod should make the following statement in the article above quoted:—"On the inside of a cupboard door which opened from the kitchen lobby opposite the foot of the stair, and on the upper part of the door, there was a large stain of blood which the writer believes could only have been produced by a person concealing himself within, and holding the door close with a bloody hand."

possible, but he thought highly improbable, that all the wounds on the face had been inflicted upon the deceased while she was in an erect position. If the first blow had felled her, she would then be in a horizontal position, and there would be no difficulty in accounting for the other two. Any inclination of the head would, he admitted, affect the direction of the wounds, and the extent to which that happened would remove the difficulty. He was satisfied from the appearance of the body that it had been drawn by the head with the face downwards, the legs, between the knees and the toes, being dragged upon the ground. He still believed from the footmarks seen by him on the kitchen floor that there had been a struggle; there was nothing else contradictory of Mrs. M'Lachlan's statement. He thought that a woman who had received such wounds on the forehead and nose would be capable of engaging in a severe struggle. He had no theory in regard to the washing of the body. It was inexplicable; he never could account for it.

Dr. Mathie Hamilton stated that, when in practice in South America between 1826 and 1848, he had seen many cases of murder and assassination. He had examined the head of the deceased in a state of maceration on the Monday after the trial (22nd September). There was nothing in the appearance of the incision across the bridge of the nose to indicate that the blow had not been given while the deceased was standing. To talk of such a blow being impossible was, he considered, an absurdity.

Mrs. Mitchell, one of the tenants of the Bridgegate property managed by old Fleming, deponed that on the forenoon of the Monday after the murder (7th July) Fleming called for the rent. She remarked at the time to her daughter, "Mr. Fleming is very raised like to-day, and has on his best clothes." He was not in his usual state, and she thought something must have occurred to agitate him. Elizabeth Mitchell, her daughter, corroborated. Fleming's manner was very agitated; he looked very flushed, more flushed than he was "for ordinary," and his eyes were staring.[1] "He had on his good black clothes, not the clothes he wore for ordinary"; he usually wore a black coat, very brown with the wear, a long-tailed coat; it was

1 The *Herald* attributed these manifestations of mental disquiet to his failure to obtain a payment from Mrs. Mitchell. If so, Fleming must have been unduly susceptible for a collector of rents.

glazed and greasy-looking about the sleeves. Daniel Paton, clothes dealer, Bridgegate, said he had paid his rent to Fleming on Monday, 7th July. Witness observed nothing particular about either his clothes or manner that day. The statement made by Fleming at the trial as to selling a brown coat to witness was not true. The coat ordinarily worn by Fleming about the time of the murder was a big, heavy, blue beaver coat, longer than a shooting jacket, with big pockets at the sides.[1]

With reference to the general characters of Mrs. M'Lachlan and old Fleming, many witnesses were examined. Mrs. Adams spoke of the prisoner as a weakly woman, often in trouble. She had sailor boarders, who sometimes left without paying her. She was very temperate, and her "pawning proclivities" (to adopt the *Herald's* phrase) were due to her necessity, not to intemperance or extravagance. Sarah Adams deponed to the prisoner's intimacy with Jessie M'Pherson, and her friendly relations with old Fleming. Witness had seen Fleming in her house, and heard the prisoner address him familiarly as "Grandpa." The prisoner was often ill when witness was with her; her bad health kept her very poor. Witness left her service some six weeks before her apprehension. James M'Lachlan, husband of the prisoner, stated that he "boarded himself" on the ship, and gave the balance of his wages, eighteen shillings a week, to his wife. She was very delicate. Mrs. Marshall and Mrs. Clotworthy, who lived in the same "land" as the prisoner, spoke favourably of Mrs. M'Lachlan as a very mild, gentle-tempered, and kindly woman; neither thriftless, extravagant, nor given to drink. Her health was bad.

Mrs. Smith (of the "emigration" incident) was re-examined. She knew Jessie M'Pherson intimately. Jessie and Mrs. M'Lachlan were very affectionate, almost like sisters. Witness had spoken to Jessie about the money which the prisoner owed her; but Jessie "said never to heed, as she [Mrs. M'Lachlan] had been at great expense on account of illness, and would pay when she got better." Witness had seen Fleming twenty

[1] Neither the evidence given at the trial nor that taken by the Commissioner supplies any information as to the extent of Fleming's wardrobe before and after the murder. This is the more remarkable as we possess a complete inventory of every stitch of clothing belonging to Mrs. M'Lachlan; but no doubt the authorities were satisfied upon this, as on other points, before Fleming's liberation.

times in the shop which Jessie formerly kept in Gray Street. Jessie told her that she was tormented by him, and could not get quit of him. Jessie frequently said that Fleming wanted to marry her. "She seemed to feel disgusted towards him." Witness retold how she met Jessie a fortnight before her death. "She was looking very ill; I never saw her looking so melancholy. I said, 'Jess, what's wrong?' She said, 'I'm no' weel. You don't know how I am situated; I live a miserable life. He [Fleming] is just an old wretch and an old deevil.' I said, 'Tell me the right way of the story; what has he done to you?' She said, 'I have something to tell you, but I cannot tell you just now before your husband.' She made the remark that she was well enough when the family was at home, and that her misery began when she was alone with him. I thought there was something decidedly wrong from the way she spoke that day, in such a serious kind of tone." Jessie promised to call and tell witness on 6th July. The dead secret, we know was, according to Lord Deas, that she intended to emigrate.

Mrs. M'Kinnon, foster-sister of Jessie M'Pherson, re-examined, deponed to the good terms upon which the deceased was with Mrs. M'Lachlan. Witness saw Jessie four weeks before her death. She then said her heart was broken with old Fleming. "She styled him just an old deevil, and said if she had that six months put in she would not put in another." She disliked him, but gave no other reason than his inquisitiveness. Witness had seen Fleming in Jessie's shop, and the deceased had remarked that "she did not know what that old wretch was trailing down there about." Jessie said, when witness last saw her, that she had not spent her wages. Witness was the only person Jessie called her sister. She was a natural child, and had been nursed by her (Mrs. M'Kinnon's) mother. Witness never stayed all night with Jessie in Sandyford Place. She had read Fleming's evidence at the trial. He had no reason whatever to suppose that she was with Jessie that night. He had never seen her in the house but once.[1]

Ann M'Intosh, sister of the prisoner, said that Mrs. M'Lachlan had never been well since the birth of her child. She suffered from palpitation. Witness had lived with her for eight months prior to November last, when she went to service in Edinburgh.

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1 Fleming, it will be recalled, had stated, in explanation of the cries heard by him in the night, "I thought she [Jessie] had got somebody in to stay with her. There was a woman she ca'd a sister o' hers. She bude [behoved] to be in her room."

She had seen old Fleming six times in her sister's house. On one occasion he asked witness to go as housemaid to Sandyford Place. Jessie M'Pherson visited the prisoner every second Saturday. Witness last saw Jessie on 9th November. She then said of Fleming, "The old devil! My heart is near broken with him."

Elizabeth Halliday deponed that she had been a fellow-servant of the deceased with the Fleming family two years before. She described the old man as very inquisitive and familiar in his relations with the servants. When witness, Jessie, and Fleming were at the house in Dunoon, shortly before Jessie left, she spoke of the old man as "a nasty body, or a dirty body," by which witness understood he had been behaving indecently to her. She was plainly disgusted with his attentions. Witness was surprised when she went back to service there.

Eight other women servants, within recent years in the employment of Mr. John Fleming, were examined—some less (as Lord Deas remarked of those at the trial), some of them more attractive. One, presumably belonging to the former category, who gave her age as fifty-five, was emphatic in her denial of any impropriety in Fleming's conduct. All of them described his behaviour towards the female domestics as irreproachable. The fact of the old man's abnormal inquisitiveness, of which we have heard, was further established, and the new circumstance came out that he was occasionally "tipsy." His general demeanour seems to have been familiar and homely, and one lady, whose age is not stated, described it as paternal. Another deponed that Fleming was continually speaking about Jessie: "Jess, Jess, was never out of his mouth." If anything unusual occurred in the house he was "awfu' inquisitive and anxious about it." A third, Martha M'Intyre, re-examined, said that Fleming often spoke to her and Jessie about getting married. When the other members of the family were at Dunoon he took his toddy nightly in the kitchen and gave her and Jessie a share.

James Thomson, gardener at the house at Dunoon, stated that Jessie had told him "that he (Fleming) was very anxious to marry her, and would give her all he had if she would do it." Witness believed at the time, and still believed, that she was serious when she said so. The prisoner was then in the same service. She and Jessie were "more like two sisters than anything else."

Alexander Blair, brewer, Alloa, deponed that on the night of Thursday or Friday, 19th or 20th June, he slept at 17 Sandyford Place. Next day he and old Fleming left the house about one o'clock and drove to the Cathedral, and thence to the George Hotel, where they had two brandies and sodas each. He put old Fleming in a cab at four o'clock, paid his fare, and told the cabman to drive him home. "Old Fleming was not tipsy; he was hearty and in good spirits." James M'Ginn, the cabman, drove Fleming to Sandyford Place on the occasion in question about five or six o'clock. The old gentleman, he said, was under the influence of liquor; he had to assist him up the steps to the front door.[1]

Excerpts from the session minute book of Anderston United Presbyterian Church were proved by the minister and elders, the written and oral testimony being to the effect that on 8th April, 1852, James Fleming underwent the discipline of the Church for "the sin of fornication with Janet Dunsmore," by whom he had a child.[2]

The Rev. Mr. Aikman deponed that, in his ghostly capacity, he had examined Fleming before the trial with reference to the murder, and was satisfied of his innocence. Witness had also seen him later regarding the prisoner's statement. "With reference to it, he [Fleming] spoke of the depravity of the human heart," but apparently made no more specific comment.

Robert Jeffrey, detective officer, who had inspected the *locus* on the night of 7th July, re-examined, described the sheet, saturated with blood, found by him under the basin-stand in the bedroom. There was blood on the blankets, but they had been washed. Some articles in the servant's box were smeared with blood. Witness asked Mr. John Fleming if any plate was missing, and he said he could not tell. Witness examined the sideboard, and saw "a good deal of valuable stuff." Mr. Fleming remarked, "They might have gotten away that if they had been wanting plunder." Why this plate was left

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1 The evidence of these two witnesses has reference to the occasion spoken of by Jessie M'Pherson to the prisoner, as mentioned in Mrs. M'Lachlan's statement, when Fleming came home drunk.

2 The "Flemingite" Press charitably ignores this patriarchal lapse. The woman is stated to have been a domestic servant; but whether or not she was in Fleming's own employment does not appear. In view of his long connection with the church—beyond the memory of the oldest elder—it is somewhat curious that his conviction should have been recorded in the minutes under a pseudonym—William, instead of James Fleming.

was to witness a mystery; "I have not seen to the bottom of it yet."

Bernard M'Laughlin, sheriff's officer, searched the premises on 12th July. The Fiscals were present at the time. There was a great quantity of ashes under the kitchen grate, among which he found a shirt button. It had been in the fire, and was burnt. He at the same time took possession of a hammer, the head of which was marked with blood, found in the kitchen, and of a pair of men's socks, found in the servant's bedroom. These articles were shown by witness to the Fiscals.

Colin Campbell, police constable, re-examined, repeated how he saw two women, neither of whom was the prisoner, come out of the house on the night of Saturday, 5th July. Campbell was corroborated as regards the date by Mrs. M'Kay, his landlady, and a friend, Allan M'Lean.

The evidence, as printed, closes with the conflicting statements of two Glasgow cattle dealers, one of whom (boasting the eminent name of Sheridan Knowles) said the other had told him that old Fleming was seen by a third party at the door of 17 Sandyford Place at four o'clock on the morning of the murder. Witness had found his informant "only middling truthful in matters generally." His experience was probably confirmed by the evidence of the latter, who denied the whole occurrence.

This concludes our survey of the evidence taken by the Commissioner at the inquiry.

While the issue of the Parliamentary papers and the debates thereupon did not affect the faith of the *Herald* or the *Morning Journal* in the innocence of their respective clients, many "M'Lachlanite" journals had modified their views, and held that the question was not whether the prisoner was guilty, but whether the guilt was divided, and, if so, how it was distributed.[1]

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1 On the threshold of the case the doctors said that the blows had been dealt by "a female or a weak man." It is a singular circumstance that all the presumptions, whether in favour of or against the prisoner, are equally applicable to Fleming. *Prima facie*, each was an unlikely assassin; the one a woman in delicate health, the other a man of advanced age. Both knew the victim intimately, and, in their several ways, had professed affection for her. In either case the motive alleged was almost incredibly inadequate. On the other hand, both had been apprehended for the crime, and, as the murder was certainly committed by one or other or both of them, each had a vital interest in the other's conviction. To clear themselves both unquestionably lied.

Upon this point the *Law Magazine and Review* (1863, vol. xiv. 78-79) observes—

> Indeed, had old Fleming not been in the house that night, and had his conduct been less peculiar, and less at variance with his proved character and all human probability, the verdict of the jury might have been considered as free from reasonable doubt, and as justified by the whole body of the evidence. But fortunately for Mrs. M'Lachlan, it may be unfortunately for the ends of justice, old Fleming's conduct was such as to subject him to very heavy suspicion, and let us say at once that, after the best consideration we have been able to give the whole evidence, we are deliberately of opinion that the balance of probabilities hangs about evenly between him and Mrs. M'Lachlan; or in other words, that the proof of his guilt is as strong as the proof of her guilt.

"Heaven forbid that I should enter at any length into the Sandyford murder case!" protests a correspondent of the *Morning Journal*, and forthwith proceeds to occupy a column of print. Once embarked upon that venture, we experience a similar difficulty in quitting the subject. Mrs. M'Lachlan being, justly, in Perth Penitentiary; old Fleming, justly or not, in voluntary retirement; and the case having been discussed in every conceivable form for upwards of twelve months, the affair might well be considered at an end. Such, unhappily for the reader, is not the fact. The genesis of the extraordinary epilogue with which we have now to deal is, like so much else in the case, obscure. For some time the *Herald* had been throwing out mysterious hints of an alleged confession by the convict, which the editor had, so to speak, up his journalistic sleeve. The first overt step in this direction was the publication in the *North British Daily Mail* (25th June, 1863), of a letter from Messrs. Smith & Wright, Fleming's agents, to Mr. Dixon, agent for Mrs. M'Lachlan, together with that gentleman's reply. The agents stated that they had been informed by Detectives Audley Thomson and William Smith that Mr. Dixon had told the latter Mrs. M'Lachlan had confessed to him "that she had done the deed herself, without the aid or knowledge of Mr. Fleming." Mr. Dixon stated in answer, "I have to say that the story told by the detectives, Smith and Thomson, is absolutely false. I never stated to them that the prisoner had made such a confession as they specify, or that she had made any confession of guilt whatever."

There the matter rested, until on 6th July the *Daily Mail* published a statement by the two detectives, giving their

version of an alleged conversation had by them with Mr. Dixon in West George Street a few days after the respite. They stated that Mr. Dixon had then expressed the opinion that Fleming was innocent, and had characterised his own client as "a damnable woman"; that he said she was "ranging up and down the house that night looking for what answered her"; that when old Fleming came downstairs she hid from him in the lobby press; that she heard the milkboy at the door and answered it herself; and that she went away by the back door, which she left open.[1]

The necessity for any rejoinder to this communication was superseded by the publication in the *Glasgow Herald* on the same date of a letter from Mr. Dixon, and a signed statement giving, "in a correct and authentic form," an account of what his client had actually told him. This document is of so remarkable a character that it has been reprinted verbatim in the present volume.[2] Mr. Dixon states that, Mrs. M'Lachlan having been respited and the inquiry ordered by the Home Secretary, he obtained permission to confer with her alone. His object in doing so was to question her regarding the persistent rumour that old Fleming had been seen outside the house early on the Saturday morning.[3] He proceeded to put several questions to his client as to the old man's movements on the night of the murder. Instead of answering him she talked of irrelevant matters—incidents of the trial, the portraits in the pamphlet report, &c. "She appeared to be hysterical—sometimes crying and sometimes laughing or giggling. There was nothing, however, about the peculiarities of her behaviour to indicate that she was insane." Obviously Mrs. M'Lachlan was not in a fit state for cross-examination. Her execution had only been postponed, her fate was yet in the balance, and she had been expressly warned that, should the result of the impending inquiry fail to substantiate the truth of her statement, she must still pay the last penalty of the law. In these circumstances, upon Mr. Dixon continuing to press for an answer, the prisoner, apparently becoming bored by his importunity, "looked in his face, laugh-

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[1] Fleming at the trial swore that on the Saturday morning he found the back door locked and the key on the inside.

[2] See Appendix IV.

[3] See the evidence of Alexander Sheridan Knowles at the Commissioner's Inquiry; Appendix III. (3).

ing, and said, 'I may just as weel tell ye that the auld man wasna there at a'.'" In reply to further questions, Mrs. M'Lachlan said that she entered the house by the back door; that she had not been upstairs at all that night; and that she was not out for whisky. "But," said Mr. Dixon, "Mrs. Walker and Miss Dykes saw you?" She replied that she was then going to the house for the first time, and that she had gone straight there after leaving Mrs. Fraser (whom Mr. Dixon misnames "Mrs. Macgregor") at the Gushet House. Mr. Dixon pointed out that an hour had elapsed between her leaving Mrs. Fraser and the time when she was seen by the two witnesses; but she adhered to her statement, and "could give no other account of what she had been doing in the interval."[1] The fateful milkboy, who at the trial had been made by Mr. Clark the touchstone of old Fleming's veracity, was now invoked by Mr. Dixon—"Who opened the door to the milkboy?" he asked. The prisoner replied that she herself had done so, adding that "the old man was in bed at the time."

If, in the doubtful and elusive elements of this baffling case, there be one fact finally established beyond possibility of dispute, it is that old Fleming opened the door to that milkboy at twenty minutes to eight o'clock on the morning of Saturday, 5th July, 1862. It is proved by the oath of the milkboy, Donald M'Quarrie; by that of George Paton, the milkman; and (after divers prevarications) by that of James Fleming himself; further, it is admitted even by Lord Deas and by the editor of the *Glasgow Herald*. If any reliance whatever is to be placed in human testimony, this fact must be accepted as proved.

On being reminded by Mr. Dixon of this circumstance, "she said that she was aware of that, but it was she that did it notwithstanding." Mr. Dixon then inquired if she herself had committed the murder? "she said that she could not tell—that she knew nothing about it." In reply to further questions she made a rambling statement to the effect that both she and Jessie were drunk; that they repeatedly vomited; that she therefore washed Jessie's face, the floor, and the blankets—"not

1 It may be recalled that at the trial Mrs. Fraser deponed that they parted at "ten o'clock or five minutes past ten"; that Thomas Robb, superintendent of police, said it would take "ten minutes, or inside of that time," to walk at an ordinary pace from the Gushet House to Sandyford Place; and that Mrs. Walker and Agnes Dykes saw the woman go into the lane "about a quarter-past eleven."

to remove blood stains"; that Jessie gave her laudanum to stop the retching, which drug had, upon a former occasion, made her delirious, as her husband and sister could tell—"a statement which the husband and sister afterwards contradicted to Mr. Dixon"; that "after that she had no recollection of anything whatever till she found the body in the morning"; and that the old man was not downstairs that night or morning at all. She also stated that she remained in the house till nearly nine o'clock, because she was too dazed with drink and laudanum to think of escaping sooner, and that she left by the back door. "No questions," continues Mr. Dixon, "were put to her regarding the clothing or the silver plate, and she said nothing about them; nor did she make any other statement regarding the night's proceedings."[1]

This, the fifth statement of Mrs. M'Lachlan, has much more in common with the three declarations emitted by her before the Sheriff than with the celebrated statement made to her agents six weeks before the trial. The former were, in the words of the Lord Advocate, "palpably false"; tested by the evidence, they are clearly so. The latter, whether true or false, fits the main facts as subsequently proved with surprising exactness, and undoubtedly makes plain many points otherwise inexplicable. Further, the former were extorted by methods, to say the least, undesirable; the latter was a spontaneous act.

On receiving this communication Mr. Dixon told the prisoner that he did not know what to make of it; that it placed him in a very awkward position, and suggested some doubts as to

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[1] The *Daily Mail*, a "Flemingite" organ, in commenting on this "confession," observes—"We have further learned, and this fact will probably be taken by those who still credit her first declaration as a reason for denying her sanity in making the confession to Mr. Dixon, that she was at the time labouring under a uterine disease, which frequently leads to temporary insanity. Mr. Dixon, on hearing her story, did not attempt, by any continued cross-questioning, to divest the apparent falsehood from the probable truth; and, had he done so, would in all likelihood have been baffled by an exercise of that power of fabrication which, when thoroughly on her guard, M'Lachlan was ever ready to bring into play. Desirous of quietly making some investigation into the startling tale he had heard, Mr. Dixon, we understand, repeatedly interrogated the milkboy as to whether he could be mistaken in saying that Mr. Fleming had opened the door on the morning of the murder. The lad, however, stood firm to what he had all along asserted, declaring that he could by no possibility be mistaken, having seen the old gentleman."

his continuing to act as her agent. The prisoner then said that there was not a word of truth in it—"that she had only said so to see how he would look." Mr. Dixon told her he would consider how he should act, and the prisoner said she hoped he would not mention what she had told him, repeating that it was all lies, and that the statement made at the trial was the truth. Mr. Dixon explained to her that she might rest satisfied upon that point, as, being her agent, he was bound to secrecy.[1] He then consulted confidentially two professional friends, and decided to continue the case. In conclusion, Mr. Dixon explains how he came to make the statement public. To the circumstances in which he did so we shall shortly return.

Meanwhile, the publication of this statement was, from the journalistic standard, disappointing. Unlike its famous forerunner, it caused no popular excitement, and failed to lure the amateur detective into print. The *Morning Journal*, borrowing the *Herald's* adjective on the evidence at the inquiry, described the statement as "utterly worthless." Even the *Herald* dealt this trump card with unwonted modesty—evidently the "confession" would not bear rough handling. "According to the laws of evidence and the rule of universal experience," remarks that erudite journal (10th July, 1863), "a liar is entitled to belief, and is only to be believed when he makes a revelation which criminates himself, and we are not going to deny this time-honoured privilege to the heroine of the cleaver."[2] Had the *Herald* been in existence some centuries earlier the editor would doubtless have applied this dictum to the incredible self-accusations upon which dozens of harmless old women were annually burnt as witches. The most interesting feature of the leading article referred to is a eulogium upon the action of Mr. Dixon, which is in marked

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1 Yet, if we are to credit the detectives' story, Mr. Dixon forthwith disclosed the whole conversation (including statements *not* made by her) to the first persons he met in the street, who were, moreover, as Crown witnesses personally interested in the prosecution; and this while his client's life was still at stake.

2 With reference to the well-recognised fact that many persons have charged themselves with the commission of crimes of which they were undoubtedly guiltless, see cases cited by Mr. John Paget in his account of "The Campden Wonder."—*Paradoxes and Puzzles*, 1874, pp. 337-358.

contrast to the opinions previously expressed by the *Herald* regarding that gentleman's professional conduct.[1]

This, surely, should have been the epitaph of the M'Lachlan case; and the curtain, to vary the metaphor, would fittingly have fallen upon a tableau so effective as the editor of the *Herald* taking to his bosom the agent of "the wretched woman." But Messrs. Smith & Wright, indefatigable in the interests of their aged client, would not let the matter rest. There was published in the *Herald* of 13th August, 1863, a letter from them enclosing certain correspondence and official documents, which are reprinted in the present volume.[2] These relate to an interview between Mr. Dixon and Mrs. M'Lachlan (now known as "389/21") in Perth Penitentiary on 19th June.

It appears, from the statement of Mr. Dixon before mentioned, that some time after the commutation of the sentence his statement was communicated to Mr. Fleming's agents, and by Mr. Dixon and them to several eminent and experienced gentlemen of the Faculty, including the Dean. The opinion of the Dean was that, without his client's sanction, Mr. Dixon could not make public the "confession." In order to obtain her permission Mr. Dixon accordingly went to Perth and there interviewed the convict in presence of the Governor, the surgeon, and the matron of the prison. "The result," the Governor reports, "was unsuccessful, as the prisoner denied that the conversation referred to had ever taken place." She reasserted her innocence, and said that old Fleming "did the act." On being reminded that "Mr. Fleming's friends all declared that he was innocent," she made the pertinent rejoinder, "How could his friends know whether he was innocent or not? They

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1 "Mr. Dixon, who had before an excellent action of damages against the *Herald*, had he chosen to prosecute it (but naturally a lawyer is shy of law, except when a client is to be mulcted by it), is now an object of much deference and respect. Some months since he was hounded down by the *Herald* as one of the lowest scoundrels unhung, a base conspirator with a murderess against an innocent old man. Yesterday the praises of him are sounded in the same paper as eminent for his 'moral courage,' 'of singular zeal and ability,' and 'a good citizen' who, in bursting professional bonds as Samson did the withes of the Philistines, is entitled to the gratitude of the universal British public."—*Morning Journal*, 11th July, 1863.

2 See Appendix V. It is interesting to note that one party to the correspondence is John Hill Burton, the great historian, in his official capacity as manager and secretary of the General Prison Board, which appointment he had held since 1854.

were not there." She was told that whatever she said she could not now be hanged; that her child would be cared for; that the Flemings were ruined, "every one of them," and were about to leave the country; and that "the case had lately been before Parliament." As she was neither to be frightened nor cajoled into absolving Fleming, the interview terminated.

The last document of the series—"Note by Miss Hislop, Scripture-reader in the General Prison"—calls for a passing mention. This individual stated that "in her official capacity" she often visited the convict, but never once alluded to the crime, treating her merely, in a general way, "as a lost sinner in the sight of God." One day the prisoner remarked that her case was a very sad one, whereupon this messenger of mercy gave her an official dose of that twice-blessed attribute: "I believe you to be the guilty person, and to me you seem to have acted as a guilty person throughout. You have been guilty of a deed for which you ought to have been hanged, as God has never repealed that law He gave that blood should answer for blood, but by a very mysterious providence your life has been spared." This moral stimulant is exhibited in a manner which recalls that of Lord Deas when passing sentence. The rest of the conversation is equally irrelevant—no one wanted to know what Miss Hislop thought, but what Mrs. M'Lachlan said; and what she might have said Miss Hislop prevented her from saying.[1]

Mr. Dixon's client having not only refused her consent to the publication of the "confession," but denied that such was

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1 The London *Daily Telegraph*, in an article commenting on this episode, remarks—"Even in a Scotch gaol we can scarce believe that Scripture-readers are allowed to act as private inquisitors, and to report their investigations to the authorities of the gaol. . . . Really this is too bad. Let gaolers, lawyers, and policemen try, if they like, to extort some statements to her own detriment from the lips of the unhappy woman who has fallen to their tender mercies; but, for Heaven's sake, let us have no more of a lady Scripture-reader acting as an amateur detective. Our law does not admit of moral torture. 'I feel sometimes,' said Jessie M'Lachlan to her persecutors, 'as if I would go through these prison walls. I often think my mind will give way.' Surely there are other ways by which the partisans of Mr. Fleming may establish his innocence, if that be possible, than by torturing this poor creature into some garbled admission in his favour. Let them show, as they have never done yet, what his character was—what his relations were with his family, his servants, and the murdered woman—and they will do more to clear his repute than by recording every doubtful expression twisted, none knows how, from a woman half-crazed with misery."

ever made, it does not appear how, in view of his professional scruples and the ruling of the Dean, Mr. Dixon became a trusted correspondent of the *Herald*. The only light thrown by that journal upon this point is contained in the leading article before quoted—"We have done our best to probe this notorious case to its very foundation, and we are content that *we have had some hand in laying it before the public in its present shape.*"

After this a welcome silence falls upon the subject. For fifteen years the journals ceased from troubling, and their readers were at rest; nor till the month of October, 1877, was there any recrudescence of the ancient sore. On Friday, the 5th of that month, Mrs. M'Lachlan, having served her commuted sentence, was released from Perth General Prison upon a ticket-of-leave. Her conduct had been exemplary. She was in her forty-fourth year; half a generation had passed since she vanished nameless from the common life of men; and it must have been to a changed and unfamiliar world that she now returned, a stranger and alone. Old Fleming, in the course of nature, had long since gone to his account, remaining till the day of his death under the black shadow of her accusation; the son she had left a child was a grown man; her husband, it is said, had emigrated; and she, with the £30 which she had earned during the long years of her imprisonment, must begin life afresh. Avoiding Glasgow, where she could not hope to escape recognition, she went the day after her release to Greenock. There, apparently, she expected to remain unnoticed; but she reckoned without the ubiquity of an enlightened Press. The *Greenock Advertiser* discovered her retreat, and by the questionable methods of "our own Commissioner" was enabled, on 9th October, to publish in bad English, and, if possible, worse taste, the result of an "interview" with that emissary's hapless prey. There is an echo of the old-time warfare in the fact that the *Greenock Telegraph*, on the 11th, denounced this "interview" as a fabrication and "a performance that would be disowned by any schoolboy," in which contention that journal was ably seconded by the *Glasgow Evening News*. "We can conceive of nothing more cruel than this retransfixion of the unfortunate woman upon the spear of notoriety," observes the latter; "a disgraceful attempt has been made to achieve popularity and profit by harassing an unfortunate woman, and hawking the result

about for a halfpenny." This is not unworthy of the *Morning Journal* at its best, in the stirring days which followed upon the trial.

We learn from an article on the case in the *Dumbarton Leader* that two years after her liberation her husband died; that she afterwards went to America, where she was joined by her son; and that she married again, and settled in the new world. On 14th February, 1899, her son wrote to a cousin in Greenock that his mother had died of heart disease at Port Huron, Michigan, on New Year's Day.

So, in that outland grave beyond the seas, and in the homely earth of Anderston Churchyard where old Fleming lies, the secret of the Sandyford mystery is buried; and though well-nigh half a century has passed since that work of darkness was so foully wrought, the riddle of its doing yet remains unread.

Leading Dates in the M'Lachlan Case.

(*The following table includes only such incidents as were either* (1) *not in dispute;* (2) *proved by independent testimony at the trial; or* (3) *matters of fact otherwise established.*)

1862. 4 July—10 p.m.—Mrs. M'Lachlan leaves her house, No. 182 Broomielaw, to visit Jessie M'Pherson.

4 July—10.10 p.m.—Mrs. M'Lachlan parts from Mrs. Fraser at the Gushet House, Stobcross Street.

4-5 July—Jessie M'Pherson murdered at No. 17 Sandyford Place.

5 July—7.40 a.m.—James Fleming opens the door to the milk-boy and refuses the milk.

5 July—9 a.m.—Mrs. M'Lachlan returns home and is admitted by Mrs. Campbell.

5 July—11 a.m.-12 noon—Mrs. M'Lachlan pays her rent.

5 July—12-1 p.m.—Mrs. M'Lachlan pawns the silver plate.

5 July—Mrs. M'Lachlan sends to Hamilton leather trunk containing her blood-stained skirt and petticoats.

5-7 July—James Fleming alone in the house with the corpse.

7 July—4 p.m.—Discovery of the murder by Mr. John Fleming and his son.

8 July—Post-mortem examination conducted by Drs. Fleming and Macleod.

8 July—Mrs. M'Lachlan at Hamilton.

9 July—James Fleming arrested as being concerned in the crime; examined for four hours before the Sheriff; and committed to prison.

9 July—Mrs. M'Lachlan sends to Ayr tin box containing deceased's clothes.

Mrs. M'Lachlan.

1862. 9 July—Missing plate produced by Lundie, the pawnbroker, to police.

13 July—Mrs. M'Lachlan and her husband arrested for the murder.

14 July—James M'Lachlan and his wife successively examined before the Sheriff and separate declarations emitted by them; James M'Lachlan liberated and his wife committed.

16 July—Dr. Macleod conducts experiments to compare Mrs. M'Lachlan's foot with the three bloody footprints found in the house.

16 July—Tin box recovered by police; Mrs. M'Lachlan re-examined by Procurator-fiscal, and second declaration emitted by her.

17 July—James Fleming liberated after consultation of Crown authorities in Edinburgh.

21 July—The blood-stained clothes having been found at Hamilton, Mrs. M'Lachlan further examined by Procurator-fiscal, and third declaration emitted by her.

1 August—Blood-stained articles examined by Professor Penny.

12 August—Mrs. M'Lachlan verbally communicates her "statement" to her agent, Mr. Wilson.

13 August—Mrs. M'Lachlan repeats her "statement" to her agent, Mr. Dixon, who commits same to writing.

30 August—Indictment served on Mrs. M'Lachlan.

17 September—First day of trial—evidence for prosecution.

18 September—Second day—evidence for prosecution continued.

19 September—Third day—evidence for prosecution concluded; evidence for defence; addresses of counsel.

20 September—Fourth day—judge's charge; verdict; Mrs. M'Lachlan's statement; sentence of death—to be executed 11th October.

22 September—Letter from Mrs. M'Lachlan's agents regarding the preparation of her statement, published in the newspaper press.

26 September—Preliminary meeting held in Glasgow in support of the petition to the Home Secretary praying for a respite and further investigation.

Leading Dates.

1862. 29 September—Public meeting held in the City Hall, Glasgow, when resolutions as to the necessity for further investigation carried, and deputation to the Home Secretary and Lord Advocate appointed. Public meeting held in Edinburgh, when similar resolutions carried.

30 September—Sir Archibald Alison, Sheriff of Lanarkshire, on the instructions of the Lord Advocate, commences a private inquiry into the case.

3 October—Deputation received by Lord Advocate in Edinburgh.

3 October—Execution of sentence respited by Home Secretary until 1st November.

13 October—Appointment of Mr. George Young, Advocate, as Crown Commissioner to continue the inquiry.

17-20 October—Inquiry conducted by Crown Commissioner with closed doors.

24 October—Result of inquiry communicated by the Commissioner to the Home Secretary.

28 October—Execution of sentence respited until further significance of Her Majesty's pleasure.

6 November—Conditional pardon granted to Mrs. M'Lachlan—sentence commuted to penal servitude for life.

11 November—Mrs. M'Lachlan removed to General Prison of Perth.

14 November—Letter from Home Secretary to James Fleming's law agents giving his reasons for recommending commutation of the sentence.

1863. 24 April—Debate in House of Commons upon Mr. Stirling's motion for copies of the proceedings at the trial and of the evidence taken at the subsequent inquiry.

4 June—Motion by Mr. Stirling for further returns.

19 June—Interview between Mrs. M'Lachlan and her agent, Mr. Dixon, in Perth General Prison.

26 June—Debate in House of Commons upon the M'Lachlan case.

6 July—Statement by Mr. Dixon, agent for Mrs. M'Lachlan, regarding alleged "confession" made by her to him, published in *Glasgow Herald*.

Mrs. M'Lachlan.

1863. 13 August—Correspondence and documents relating to Mr. Dixon's interview with Mrs. M'Lachlan at Perth, published in *Glasgow Herald*.

1877. 5 October—Mrs. M'Lachlan released from Perth General Prison upon ticket-of-leave.

1899. 1 January—Death of Mrs. M'Lachlan at Port Huron, Michigan, U.S.A.

THE TRIAL.

GLASGOW AUTUMN CIRCUIT.

WEDNESDAY, 17TH, TO SATURDAY, 20TH SEPTEMBER, 1862.

Judge Presiding—

LORD DEAS.

Counsel for the Crown—

Mr. ADAM GIFFORD, *Advocate-Depute*, and
Mr. ANDREW MURE, *Advocate.*

Agent—

Mr. ANDREW MURRAY, Junior, W.S., Edinburgh.

Counsel for the Pannel—

Mr. ANDREW RUTHERFURD CLARK, Mr. ROBERT MACLEAN,
and Mr. ADAM BANNATYNE, *Advocates.*

Agents—

Messrs. JOSEPH ANTHONY DIXON, JOHN STRACHAN, and
WILLIAM M'WHIRTER WILSON, Writers, Glasgow.

FIRST DAY.

At Glasgow, the Seventeenth day of September, 1862. Present the Honourable Lord Deas, one of the Lords Commissioners of Justiciary.

Present—

The Sheriff of Lanarkshire.
The Sheriff of Dumbartonshire.
The Sheriff of Renfrewshire.

Intran. Jessie M'Intosh or M'Lachlan, now or lately prisoner in the Prison of Glasgow, Pannel.

Indicted and Accused as at the instance of Her Majesty's Advocate, for Her Majesty's interest, of the crime of murder, as also theft, in manner mentioned in the libel raised thereanent.

The Indictment.

Jessie M'Intosh or M'Lachlan, now or lately prisoner in the prison of Glasgow, you are indicted and accused at the instance of James Moncreiff, Esq., Her Majesty's Advocate for Her Majesty's interest: That albeit, by the laws of this and of every other well-governed realm, murder, as also theft, are crimes of an heinous nature, and severely punishable; yet true it is, and of verity, that you the said Jessie M'Intosh or M'Lachlan, are guilty of the said crime of murder, and of the said crime of theft, or of one or other of the said crimes, actor, or art and part; in so far as (1), on the 4th or 5th day of July, 1862, or on one or other of the days of that month, or of June immediately preceding, or of August immediately following, in or near the house or premises in or near Sandyford Place, in or near Glasgow, then, and now, or lately occupied by John Fleming, accountant, now or lately residing there, you the said Jessie M'Intosh or M'Lachlan did, wickedly and feloniously attack and assault Jessie M'Pherson, otherwise Jessie M'Pherson Richardson, then a servant in the employment of the said John Fleming, and residing in the said house or premises in or near Sandyford Place aforesaid, now deceased, and did with an iron cleaver or chopper, or other similar edged instrument, to the prosecutor unknown, strike the said Jessie M'Pherson, otherwise Jessie M'Pherson Richardson, one or more blows on the face and forehead, and several blows on the head and neck, and did inflict severe wounds on the face, head, and neck of the said Jessie M'Pherson, otherwise Jessie M'Pherson Richardson, whereby her skull was fractured, and she was otherwise seriously and mortally injured in her

person; in consequence of which, or of part thereof, the said Jessie M'Pherson, otherwise Jessie M'Pherson Richardson, immediately or soon thereafter died, and was thus murdered by you the said Jessie M'Intosh or M'Lachlan: Farther (2),

Time and place above libelled,

you the said Jessie M'Intosh or M'Lachlan did, wickedly and feloniously, steal and theftuously take away from the said house or premises in Sandyford Place aforesaid,

Six or thereby silver or other metal table spoons,
Six or thereby plated or metal dessert spoons,
Six or thereby silver or other metal toddy ladles,
A silver or other metal fish slice,
A silver or other metal soup divider,
Two or thereby silver or other metal teaspoons,
A plated metal sauce spoon, and
Six or thereby plated or other metal forks,

the property or in the lawful possession of the said John Fleming, as also,

A velvet cloak,
A cloth cloak,
A black silk dress,
A brown or other coloured silk dress,
A merino or other dress,
A silk jacket or polka, and
A plaid,

the property or in the lawful possession of the said Jessie M'Pherson, otherwise Jessie M'Pherson Richardson, now deceased, or of her heir, executors, and representatives, or of the said John Fleming: And you the said Jessie M'Intosh or M'Lachlan having been apprehended and taken before Alexander Strathern, Sheriff-Substitute of Lanarkshire, and in his presence at Glasgow, emit and subscribe three several declarations, dated respectively,

14th day of July, 1862,
16th day of July, 1862, and
21st day of July, 1862;

which declarations, as also the articles, books, plans, and writings or documents, specified and enumerated in an inventory hereunto annexed and referred to; as also the several labels attached to said articles; being to be used against you the said Jessie M'Intosh or M'Lachlan at your trial, will, for that purpose, be in due time lodged in the hands of the Clerk of the Circuit Court of Justiciary before which you are to be tried, that you may have an opportunity of seeing the same; all which, or part thereof, being found proven by the verdict of an assize, or admitted by the judicial confession of you the

said Jessie M'Intosh or M'Lachlan, before the Lord Justice-General, Lord Justice-Clerk, and Lords Commissioners of Justiciary, in a Circuit Court of Justiciary to be holden by them, or by any one or more of their number, within the burgh of Glasgow, in the month of September, in this present year 1862, you the said Jessie M'Intosh or M'Lachlan OUGHT to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

AD. GIFFORD, A.D.

INVENTORY OF ARTICLES, BOOKS, PLANS, AND WRITINGS, OR DOCUMENTS, REFERRED TO IN THE ABOVE INDICTMENT.

1. A shift, a semmet, and a woollen polka.
2. A sheet.
3. Three petticoats, a towel, a petticoat crinoline, and a pair of stays.
4. An iron chopper or cleaver, with two labels attached.
5. A glass bottle.
6. A key.
7. Two pieces of flooring, having footmarks thereon.
8. Three pieces of wood, having footmarks thereon.
9. A woollen cozie or comfort.
10. A piece of checked muslin.
11. Six silver table spoons.
12. Six plated dessert spoons.
13. Six silver toddy ladles.
14. A silver fish slice.
15. A silver soup divider.
16. Two silver teaspoons.
17. A plated sauce spoon.
18. Six plated forks.
19. A box or trunk.
20. Thirteen, or thereby, pieces of woollen or flannel cloth.
21. Six, or thereby, pieces of wincey or other cloth.
22. Twenty, or thereby, pieces of coburg or other cloth.
23. A sleeve, or part of a sleeve, of a dress.
24. A flannel petticoat.
25. Parts of a petticoat crinoline.
26. A straw bonnet, trimmed with blue or other ribbons.
27. A black and blue water-shaded gown.
28. A japanned box.
29. A velvet cloak and a cloth cloak.
30. A black dress, or parts thereof; a brown silk dress, or parts thereof; and a silk jacket or polka.
31. A plaid.
32. A merino gown, or parts thereof.
33. A cloth cloak, or parts thereof.
34. Forty-one, or thereby, pawn tickets.
35. A printed handkerchief or muffler.
36. A flannel petticoat and a shift.
37. A cotton handkerchief.
38. A key.
39. Two keys.

40. Two keys.
41. A key.
42. Four pawn tickets.
43. Two pawn tickets.
44. Way-bill, titled "Glasgow and South Western Railway Local Parcels Way-Bill, Glasgow to Ayr, 4.30 o'clock train, 9th July, 1862," or similarly titled.
45. Way-bill, titled "Glasgow and South Western Railway Local Parcels Way-Bill, Ayr to Glasgow, 9.50 o'clock train, 11th July, 1862," or similarly titled.
46. Way-bill, titled "Caledonian Railway Guard in charge (to be filled in by receiving station) Parcels Way-Bill, Greenock to Bridge Street, Departure 10.30 a.m. o'clock train, 16th day of July, 1862," or similarly titled.
47. Book, titled at the top "Received in good order from Glasgow and Paisley Joint Railway Co.," or similarly titled.
48. Book, titled on the back "Day Book, 1862," or similarly titled.
49. Three shirts.
50. Two pieces of cloth.
51. Book, titled "Caledonian Railway Parcel Book forwarded Glasgow So. Side Station James Lonie Pcl Clerk," or similarly titled.
52. Book, titled on the back "Parcel Book outwards," or similarly titled.
53. Receipt book, titled on the top "Received in good order from the Glasgow and Paisley Joint Railway Co.," or similarly titled.
54. Six plans of premises at No. 17 Sandyford Place, Glasgow, numbered respectively 1, 2, 3, 4, 5, and 6.
55. Two sheets of paper with pencil tracings thereon.
56. A medical report or certificate, bearing to be dated "Glasgow, July 8th, 1862," and to be subscribed "Geo. H. B. Macleod, M.D., F.R.C.S., Joseph Fleming, Surgeon," or to be similarly dated and subscribed.
57. A medical or chemical report or certificate, bearing to be dated "Andersonian University, Glasgow, 11th August, 1862," and to be subscribed "Frederick Penny, Professor of Chemistry," or to be similarly dated and subscribed.
58. Passbook of the National Security Savings Bank of Glasgow, titled inside, "No. 130,423—James Fleming," or similarly titled.
59. Bank Passbook, titled outside, "Argyle Street Branch Royal Bank of Scotland, No. 2, in account with Mr. James Fleming, 17 Sandyford Place," or similarly titled.

AD. GIFFORD, A.D.

LIST OF WITNESSES.

1. Alexander Strathern, Sheriff-Substitute of Lanarkshire.
2. John Gemmel, writer in Glasgow.
3. Peter Morton, clerk in the Sheriff-clerk's office in Glasgow.
4. Bernard M'Laughlin, sheriff-officer in Glasgow.
5. William Hart, writer in Glasgow.
6. Charles O'Neill, architect and civil engineer in Glasgow, and residing in Abbotsford Place, Laurieston, Glasgow.
7. John Fleming, accountant in Glasgow, and residing in Sandyford Place, Glasgow, or at Avondale Lodge, Dunoon.
8. John Fleming, junior, son of and residing with the said John Fleming.
9. Joseph Fleming, surgeon, and residing in Corunna Street, Glasgow.
10. Ebenezer Watson, physician, and residing in Newton Terrace, Sauchiehall Street, Glasgow.

11. Alexander M'Call, assistant superintendent of police, Glasgow, and residing in Charlotte Street, Glasgow.
12. Donald Campbell, criminal officer in the Western district of the Glasgow police.
13. Robert Jeffrey, criminal officer in the Western district of the Glasgow police.
14. Audley Thomson, criminal officer in the Central district of the Glasgow police.
15. William Smith, criminal officer in the Central district of the Glasgow police.
16. Margaret MacInnes or MacLachlan, widow, residing at Penmore, in the island of Mull.
17. Martha M'Intyre, servant to and residing with Alexander Stewart, merchant, at Burnbank Gardens, Great Western Road, Glasgow.
18. Mary Downie, servant to and residing with Ronald Johnstone, mining engineer, Brandon Place, West George Street, Glasgow.
19. Margaret Fleming, residing with the said John Fleming.
20. Christina Fraser, wife of and residing with John Fraser, seaman, in Grace Street, Finnieston, Glasgow.
21. Margaret M'Kenzie or Campbell, wife of and residing with Donald Campbell, seaman, in Clydesdale Buildings, Broomielaw Street, Glasgow.
22. Mary Black or Adams, residing in Holm Street, Glasgow.
23. Thomas Miller, assistant pawnbroker, and residing in Douglas Street, Glasgow.
24. Thomas Robb, assistant superintendent of the Southern district of the Glasgow police.
25. Sarah Adams, servant to and residing with James Kinloch, coffee stand keeper, Eglinton Street, Glasgow.
26. Elizabeth Coulch or Rainny, wife of George Rainny, labourer, Holm Street, Glasgow.
27. Robert Lundie, assistant to John Lundie, pawnbroker, East Clyde Street, Glasgow.
28. James Lean, assistant to the said John Lundie.
29. David Barclay, clerk at the South Side station of the Caledonian Railway in Glasgow, and residing in South Portland Street, Laurieston, Glasgow.
30. Aaron Wharton, clerk at the station in Hamilton of the Caledonian Railway, and residing with David Herd, railway porter, in Almada Street, Hamilton.
31. Marion Rae or Chassels, wife of William Chassels, carter, Almada Street, Hamilton.
32. Mirrilees Chassels, son of the said William Chassels.
33. James Chassels, son of the said William Chassels.
34. John Hamilton, saddler, Blackswell, Hamilton.
35. Elizabeth Steel, shopwoman to Jane M'Innes or Reid, milliner, Argyle Street, Glasgow.
36. Elizabeth Pollock or Gibson, wife of William Gibson, grazier and publican, Low Waters, Hamilton.
37. The said William Gibson.
38. Daniel Stewart, police constable in Hamilton.
39. Margaret Gibson, daughter of the said William Gibson.
40. Marion Fairley, daughter of John Fairley, blacksmith, Low Waters.
41. William Paterson, builder, Hamilton.
42. Andrew Cooper, police constable in Hamilton.
43. David Dewar, superintendent of police in Hamilton.
44. Jane Lambert or M'Gregor, milliner and dressmaker, Stobcross Street, Anderston, Glasgow.

45. Catherine Fraser or Shaw, wife of Alexander Shaw, tailor's cutter, Union Street, Hamilton.

46. Elizabeth M'Crone, shopwoman to Robert Murray, dyer, Argyle Street, Glasgow, and residing in West Nile Street, Glasgow.

47. Robert Spence, foreman to the said Robert Murray, and residing in M'Neill Street, Little Govan.

48. John Murray, sheriff-officer in Glasgow.

49. John Anderson, sheriff-officer in Glasgow.

50. William Smith Dunlop, assistant ironmonger to James Fullerton, ironmonger, Argyle Street, Glasgow, and residing in North Dundas Street, Glasgow.

51. James Fullerton, junior, assistant to the said James Fullerton, and residing with him in Provanside, Stirling Road, Glasgow.

52. John Rorke, clerk in the station at Glasgow of the Glasgow and Paisley Joint Railway, Bridge Street, Glasgow, and residing in Melville Street, Tradeston, Glasgow.

53. Archibald M'Millan, porter, in the employment of the said Glasgow and Paisley Joint Railway, in Bridge Street, Glasgow, and residing in Cook Street, Tradeston, Glasgow.

54. William Kerr Craig, clerk in the general manager's office in Bridge Street, Glasgow, of the Glasgow and South-Western Railway, and residing in Devon Street, Laurieston, Glasgow.

55. Robert Blair, clerk, Ayr.

56. Robert Young, clerk in the parcel office in Bridge Street, Glasgow, connected with the Greenock section of the Caledonian Railway, and residing in Nelson Street, Glasgow.

57. Elizabeth M'Lachlan or Reid, wife of William Reid, gasmaker, Drumfrocher Road, Greenock.

58. The said William Reid.

59. Donald Laurie, licensed porter, Hamilton Street, Greenock.

60. Alexander Martin, parcel deliverer, in the service of the Caledonian Railway Company at Greenock, and residing in Hill Street, Greenock.

61. James Hughes, parcel deliverer at the Greenock railway station, and residing in William Street, Greenock.

62. John M'Intyre, clerk in the parcel office at the station in Glasgow of the Greenock Section of the Caledonian Railway, and residing in Woodlands Road, Glasgow.

63. Thomas Railton, clerk and cashier to Alexander Balderston, accountant, West Nile Street, Glasgow, and residing in Renfrew Street, Glasgow.

64. David Caldwell, clerk to the said Alexander Balderston, and residing in Cadogan Street, Glasgow.

65. Alexander Baxter, joiner, residing in Garscube Road, Glasgow.

66. George Husband Baird Macleod, physician and surgeon, residing in Woodside Crescent, Glasgow.

67. William Macgill, surgeon, residing in George Street, Glasgow.

68. James M'Lachlan, seaman, and residing in Broomielaw Street, Glasgow.

69. Hugh M'Cairley, quartermaster on board the "Pladda" steamer plying betwixt Glasgow and Waterford, and residing in Oak Street, Anderston, Glasgow.

70. James Fleming, residing with John Fleming, before designed.

71. Andrew Darnley, patternmaker at the Falkirk Iron Works, and residing in High Street, Falkirk.

72. William M'Kim, teller in the office of the National Security Savings Bank, Wilson Street, Glasgow, and residing in Argyle Street, Glasgow.

73. Thomas Somervail, agent for the Argyle Street branch, Glasgow, of the Royal Bank of Scotland, and residing in Lynedoch Street, Glasgow.
74. Andrew Sloan, clerk and cashier to John Fleming, accountant, before designed, and residing in Douglas Street, Glasgow.
75. John M'Allister, calenderer, West George Street, Glasgow, and residing in Berkeley Terrace, Glasgow.
76. Frederick Penny, Professor of Chemistry in the Andersonian University, Glasgow.
77. Mary M'Pherson or M'Kinnon, wife of John M'Kinnon, fishmonger, residing in Ann Street, Greenock.
78. Elizabeth Brownlie, servant to and residing with Robert Stewart, jeweller, Sandyford Place, aforesaid.
79. John Reekie, clerk to Hart & Gemmel, procurators-fiscal, Glasgow.
80. Harriet Bain, a female warder in the prison of Glasgow.

List of Exculpatory Witnesses for Mrs. Jessie M'Intosh or M'Lachlan, presently Prisoner in the Prison of Glasgow.

1/80. Crown witnesses, as named and designed in list annexed to Indictment.
81. Mrs. Mary Fullerton or Smith, wife of Alexander Smith, labourer, in Richard Street, Glasgow.
82. James Walker, grocer, residing in or near Elderslie Street. Glasgow.
83. Mrs. Walker, wife of and residing with the said James Walker.
84. Mrs. Jessie M'Kinnon. wife of Duncan M'Kinnon, ship carpenter, and residing in or near Dover Street, Glasgow.
85. Ann MacIntosh, now or lately residing at or near Cornhill, Hope Terrace, Whitehouse Gardens, Edinburgh.
86. Mrs. Sarah Thomas, shopkeeper, in or near Broomielaw Street, Glasgow.
87. Jean Mann, servant to and residing with Mr. John Ronaldson, victualler, in or near Bridgegate, Glasgow.
88. Daniel Paton, furniture dealer, residing in or near Bridgegate, Glasgow.
89. Donald M'Quarry, residing in or near Water Street, Port Dundas, Glasgow.
90. George Paton, residing in Burnside Buildings, in or near Burnside Street, Cowcaddens, Glasgow.
91. Alexander Cameron, policeman B17, one of the Glasgow police force, attached to the Western Police Office, Glasgow.
92. John Lauder, grain dealer, West Street, Tradeston, Glasgow.
93. Andrew Murray, junior, Writer to the Signet, and residing in Edinburgh.
94. Thomas Chapman, now or lately chief clerk in the Crown Office, Parliament Square, Edinburgh.
95. Thomas Shillinglaw, now or lately second clerk in the said office.
96. David Duncan, now or lately third clerk in the said office.
97. William Milroy, now or lately fourth clerk in the said office.
98. J. M. Adam, now or lately fifth clerk in the said office.
99. George M'Queen, now or lately clerk in the Justiciary Office, Register House, Edinburgh.
100. J. W. Hamilton, now or lately Depute-Clerk of Justiciary, Edinburgh.

101. Joseph Anthony Dixon, writer in Glasgow, and residing in Sauchiehall Street there.
102. John Strachan, writer in Glasgow, and residing in Avondale Place, Paisley Road, in or near Glasgow.
103. William M. Wilson, writer in Glasgow, and residing in Buccleuch Street there.
104. William Drysdale, one of the Sheriff-clerk Deputes of Lanarkshire, residing in Glasgow.
105. George Sellars, one of the Sheriff-clerk Deputes of Lanarkshire, County Buildings, Glasgow.
106. Hugh Freeland, messenger-at-arms, and residing in Glasgow.
107. Peter Scott, Sheriff officer, residing in Glasgow.
108. Andrew Buchanan, junior, M.D., residing in Athole Place, Glasgow.
109. Agnes Dykes, greengrocer, residing in Elderslie Street, Glasgow.
110. Hugh Macdonald, general broker, in or near M'Alpine Street, Glasgow.
111. Helen Macdonald, general broker, in or near M'Alpine Street, Glasgow.
112. John Matthews, billposter, in or near Ropework Lane, Glasgow.
113. James M'Lay, rope spinner in Glassford Street, Glasgow.
114. Malcolm Campbell, master of the steamer "Vulcan," and now or lately residing in Rothesay.
115. Miss Campbell, spinster, residing in Kent Road, Glasgow.
116. James Thomson, hotel-keeper, Dunoon.
117. Mrs. Forrest or Thomson, wife of and residing with the said James Thomson.
118. Robert Chrystal, grocer and wine merchant, Charing Cross, Glasgow.
119. ——— Tatlock, assistant to Frederick Penny, Professor of Chemistry, Andersonian University, Glasgow.
120. Pearce Adolphus Simpson, M.D., West Regent Street, Glasgow.
121. Thomas Watson, M.D., West Regent Street, Glasgow.
122. Simson Buchanan, M.D., now or lately residing in York Street, Glasgow.
123. William M'Lachlan, moulder, residing at or near No. 6 Shaw Street, Greenock.
124. Robert Orr, physician and surgeon, Buccleuch Street, Glasgow.
125. Duncan M'Millan, carpenter, now or lately residing in Springfield Lane, Paisley Road, Glasgow.
126. David Brand, clerk to W. M. Wilson, writer, Glasgow.
127. Archibald Dunlop, merchant, residing in Royal Terrace, Glasgow.
128. Patrick Griffins, city porter, in or near Bridgegate, Glasgow.
129. Margaret Drew, now or lately residing in or near Holm Street, Glasgow.
130. William Taylor, oil and colour merchant, in or near Holm Street, Glasgow.

ROBERT MACLEAN.

ADDITIONAL LIST OF WITNESSES in Exculpation for Mrs. Jessie M'Intosh or M'Lachlan, indicted for Murder and Theft, at the Glasgow Autumn Circuit, 1862.

Colin Campbell, police constable, Western District of Police, Glasgow.

ADAM R. BANNATYNE.

Lord Deas finds the libel relevant to infer the pains of law.

GEO. DEAS.

Evidence for Prosecution.

The pannel, having pleaded not guilty, was remitted to an Assize, and the following jury was balloted:—

Alex. Salton, commission agent, Miller Street, Glasgow.
Wm. Holborn Fyfe, ship chandler, Shaw Place, Greenock.
Wm. Smith, wholesale grocer, Argyle Street, Glasgow.
Geo. R. Stephenson, brassfounder, Maxwell Street, Glasgow.
Andrew Spencer, coalmaster, Wishaw.
Andrew Black, saddler, West Campbell Street, Glasgow.
John Stalker, jun., Bank Street, Paisley.
Alex. Phillips, Trongate, Glasgow.
Robert Watson, colour merchant, Stow Street, Paisley.
Gavin Hamilton, cartwright, St. James's Road, Glasgow.
John Campbell, grocer, Alexandria.
John Marshall, farmer, West Hills, Lochwinnoch.
John Brodie, spirit dealer, Stobcross Street, Glasgow.
Donald M'Donald, jun., merchant, Ardgowan Square, Greenock.
Patrick Riddell, spirit dealer, Stobcross Street, Glasgow.
Who were all duly sworn to try the libel.

A special defence for the prisoner was here read.

Special Defence for Mrs. Jessie M'Intosh or M'Lachlan to the Indictment against her at the instance of Her Majesty's Advocate.

The Pannel pleads not guilty, and, without prejudice to that plea, she specially pleads that the murder alleged in the Indictment was committed by James Fleming, now or lately residing with John Fleming, accountant, in or near Sandyford Place, Glasgow.

In respect whereof, Robert MacLean, of Counsel for the Pannel.

The following evidence was adduced in proof of the libel:—

Evidence for the Prosecution.

1. Alexander Strathern, Sheriff-Substitute of Lanarkshire, shown declarations of the prisoner, dated 14th, 16th, and 21st July, deponed that they were emitted by her in his presence, freely and voluntarily, in her sound and sober senses, and after receiving the usual warning. **A. Strathern**

Cross-examined by Mr. Rutherfurd Clark—I think the husband of the prisoner, who had been apprehended on a warrant, was examined first. The husband and wife were included in the same charge. It came to be known to me

A. Strathern that the husband had left Glasgow on the morning of 4th of July, and did not return till late the following week. I can't answer more distinctly as to when it became known to me that he had left Glasgow. The husband was examined first, his examination lasting within an hour. I think it was in the course of the examination that I came to know that he had been out of town. The wife was examined after the husband. I told her she might decline to answer any questions. Her examination continued, I think, four hours. The examination was taken in the usual way. The Procurator-fiscal asked the questions, so far as I allowed him, and I dictated the answers to a clerk. She was again examined, some articles having been found in the interval bearing on the case. The second examination was conducted in the same way as the first, but she volunteered an explanation which I thought it right to take down. The articles were shown while the interrogatories were put. Some introductory interrogatories were put first. These lasted only a few minutes. The declaration shows the time and place where the articles were found.

John Gemmel 2. JOHN GEMMEL, joint Procurator-fiscal, deponed to the declarations of the prisoner having been freely and voluntarily emitted in his presence.

Cross-examined by Mr. CLARK—I believe the husband of the prisoner was apprehended on the same charge. He was liberated immediately after the pannel was examined. It was not known, though reported, that the husband had left town between the 4th July and the end of the following week. We had no means of ascertaining it.

Do you mean to say that it was not well ascertained, before his examination, that he had been out of Glasgow during the period to which I refer?—I don't think so.

Did you, as Procurator-fiscal, examine the pannel and her husband, on one citation, with having committed the crimes of murder and theft?—I did. I did not personally make inquiries after the husband, but I got reports from some of the criminal officers.

Had you not got reports from some of the criminal officers prior to the examination?—I may; and personally I made some investigation before he was examined. I had no reason to believe that he was out of town before that period. I cannot say I had any reason to doubt it.

By Lord DEAS—I can neither state whether I doubted it or not. I was not satisfied that he was out of town. It was stated by some persons in the house where the husband was. I had reason to doubt it, because I was not satisfied that he was out of town.

Mr. Clark—Did you not say that you had no reason to doubt it? Did you not say so?—I think I did. John Gemmel

Mr. Clark—And now you say you had!

Lord Deas asked Mr. Gemmel whether the following, which he had taken down, was correct:—"I heard he had been out of town from the morning of the 4th, and I had no reason to doubt he had been so. I was not satisfied it was true."—Yes.

Mr. Clark—Mr. John Lang, Procurator-fiscal, gave information of this charge?—Yes.

Did Mr. Lang tell you the prisoner's husband had been out of town during that period?—I told you it was reported he was out of town.

Did you make inquiry at the agent of the ship at Glasgow?—I made inquiry. I did not receive an answer before the husband was examined. I think the inquiry at the agent's was made after the husband's examination, and before he was directed to be released.

3. William Hart, joint Procurator-fiscal, Glasgow, being shown a declaration dated 21st July, deponed—It was made by the prisoner freely and voluntarily in my presence, when she was in her sound and sober senses, and after she had been duly warned. William Hart

4. John Fleming, accountant, Glasgow, examined by Mr. Gifford—I reside at 17 Sandyford Place, Glasgow. It is a ground flat, street flat, and a flat above. The house enters by half a dozen steps from the pavement. I resided with part of my family there, and part was at Dunoon. I was in Glasgow on Friday, the 4th July. From Friday to Monday I was generally in Dunoon. I left my house for my counting-house on the 4th July, in the morning at ten o'clock. My counting-house is in St. Vincent Place. I left my office at three o'clock afternoon for Dunoon, without going to the house in Sandyford Place. My father, James Fleming, and the servant Jess M'Pherson were left in the house at Sandyford Place on that Friday morning. Jess M'Pherson is the name of the deceased. I never knew she was called Richardson till after her death. So far as I know, these were the only two persons left in the house that morning. I had two female servants at Dunoon. John Fleming

By Lord Deas—These two servants were never at Sandyford Place. They had come but recently.

Examination resumed—My sister, Margaret Fleming, was at Dunoon. My son left the house with me on the Friday morning. He was in the counting-house during the day. He went down to Dunoon by himself that Friday

John Fleming afternoon. He was at Dunoon all Friday night; in fact, he remained at Dunoon from Friday night till Monday. The deceased had charge of the house along with my father. The deceased was with me several years ago. She left me three years ago to commence a little business for herself in a small grocery. I never was in it. It was in the neighbourhood of Partick Road, near to Finnieston. She was away from my service, I think, about three years, and came back Whitsunday was a year past, or thereabouts. It was my habit to leave her in charge of the house while at summer quarters. She was in charge of the house all the present summer. She occasionally visited us at our summer quarters, but not often. She was not at Dunoon with me on either Friday, Saturday, or Sunday. I returned by the ten o'clock boat from Rothesay on Monday morning, and arrived in Glasgow about half-past twelve. I took the boat to Greenock, and train from there to Glasgow. I went direct to my counting-house on arrival. I did not go to Sandyford Place. My son had arrived at the office before me. I left the office at four o'clock with the intention of going to dinner. I took the omnibus and dropped off at North Street, and walked to Sandyford Place, which I reached at about half-past four. I went to the grocer's and butcher's on the way.

How did you get into your house?—I rang the bell.

Who opened the door?—I think my son opened the door on that day; he had gone on before me while I was in the butcher's.

Lord Deas—Have you only one son?—Only one.

Examination resumed—Well, tell us exactly what took place?—The old man was standing at the head of the lobby, nigh to the clock. My son had passed on, and was standing near to him. The flesher's boy had been in immediately before that with some collops, which I had ordered for dinner, and were laid at the head of the stair leading down to the kitchen. The young man said, "There is no use sending anything for dinner here; there is nobody to cook it." He alluded to the old man, my father, and added, "He says he has not seen her since Friday, and that her room door is locked." These were the words he expressed; and I thought it a surprising story, as she was of steady habits. My son added, "She may be lying dead in her room for anything he knows." I put down my hat on the lobby table at the head of the staircase. I said to them both, "Come away downstairs with me." We went down accordingly. I went down first, followed by the other two. I went into the kitchen, followed by them, and saw that the fire was half out; observed nothing particular in the kitchen to attract attention, and, indeed,

did not look. From there I went to the servant's room door, which is on the same floor as the kitchen. I found the door locked, with no key in it. From there I passed into a sunk storeroom or pantry, my first idea being that, as there was an opening in the grating in that room, a window with iron stanchions, and by pushing open which entrance is got into the area, I could go into the area and look into the servant's room, and see if I could observe anything, and very likely to open the window and go in. The windows of the servant's room both look into the area; there are three windows in the area. It struck me, on second thought, that there might be a key in the pantry door that would suit the bedroom door. I turned to the door, found the key in the lock, passed it into the lock of the bedroom, and it opened it at once. When I opened the door the room was in a half-darkened state. The window blinds were down, and one-half of the window shutters were closed. The bed, which was placed with the foot to the door and the head to the window, was removed about a foot and a half from the wall. John Fleming

Lord Deas—What do you mean by the bed being about a foot and a half from the wall? Do you mean that the back of the bed was that distance from the wall?—Yes.

Examination continued—I passed on to the foot of the bed, and there discovered the servant's body lying on the floor with the feet towards the window and the head towards the opposite end of the room, inclining towards the door, in a slanting position alongside the bed. The body was naked from the small of the back downwards, entirely naked; the upper part of the body was covered with some dark clothing, as was also part of the head. I exclaimed, "Good God, here she is lying here!" or words to that effect. My father and my son were then standing at my back, and they reiterated similar words of surprise. They said, "This is dreadful!" or something to that effect. I touched nothing in any way, but said, "Come upstairs with me," and ran out to call some of the neighbours or the police to see this. We all went upstairs accordingly, and I passed out at the hall door and ran along the row, calling at several of my neighbours' doors to bring them in. I found some of the doors locked, and at others learned that the gentlemen had not come home for dinner. I was unsuccessful in finding any party to take in, although several of the gentlemen were expected almost immediately. I then passed out to the street, and met one gentleman at the entrance to the row. I told him what had occurred, and asked him to come in; but he declined, saying, "No, no; you have said enough to frighten me from my dinner." I then went to the butcher's shop at the corner, where I had been before going into the house (Mr. Train's), and asked him,

John Fleming in a hurried manner, to run down to the police office, saying that something dreadful had taken place at my house, and that I had found my servant's body dead on the floor. He accordingly ran in the direction of the police office, while I went along the street in the direction of North Street, with the idea of getting some person to take into the house. I first met Dr. Eben. Watson, and told him what had happened, and asked him to come into the house with me.

Lord Deas—Did he come with you?—He came with me, and I took him downstairs and showed him the body. He put his finger on the hip and said, "Quite cold; has been dead for some time," and asked me if I had sent for the police.

No matter what took place, did the police come?—The police came soon afterwards.

Did you bring in anybody else?—Yes; I brought in Mr. Chrystal, the grocer, and then the police authorities came, and went into the examination. Dr. Watson and the police surgeon went downstairs together after the latter came.

Did the police surgeon or the police come first?—I think the police surgeon came first. His name is Dr. Joseph Fleming.

Mr. Gifford—What do you mean by saying that part of the body was covered with a dark cloth; do you mean that there was a cloth thrown over the body, or that there was clothing on it?—It seemed to me to resemble some dark cloth thrown over the body, but I did not examine it. I do not mean that the body was dressed.

Lord Deas—Was the body, to any extent, in a dressed state?—I could not see anything except on the upper part of the body.

Mr. Gifford—When you came in with Dr. Watson did you find the body in the same state as it was when you left?—In exactly the same state.

Did you notice then, or when you came back, the state of the room otherwise?—There was a basin-stand at the left hand of the door going into the deceased's bedroom. In this basin I observed something resembling the spitting of blood. I did not see any more blood in the room at that time; I did not, however, examine the room more particularly, and I think I did not examine the floor of the kitchen. The authorities examined the floor of the kitchen. I left them that night or early next morning in possession of the house. I did not see my father till I went home on Monday at four o'clock; indeed, I did not see him in the house from Friday till the Monday afternoon. I must have seen him in the counting-house during the course of Friday. I believe the deceased was on Friday morning in her usual state of health. I was in the habit of informing her when I left home if I would not be home in the evening. I am pretty sure that I told her that Friday morning

that I would not be home that evening. When deceased left me three years ago she did so on account of her health; she was very bilious, and much troubled with her stomach. When she came to me last she enjoyed better health than she did previously. For some time before her death she was generally in good health. I could not say that ever I heard there was a quarrel or misunderstanding between her and any member of my family. I had great confidence in her. I came back to my house in Sandyford Place on the forenoon of Tuesday. I think I made a good search upon Monday evening before leaving, to see if any of my property were missing. I missed several silver and plated articles, which the deceased had out for daily use from the sideboard in the dining-room. I could not at the moment enumerate the different articles. In these I do not include forks and knives, which were not of much value. The cruet-stand was not amissing. I found it lying under the table in the servant's bedroom, near to the body of the deceased; it was without the bottles. I did not at the time make a complete search, but I made one afterwards, and I missed the following articles, which I am now shown:— Six silver table spoons, six plated dessert spoons, six silver toddy ladles, a silver fish slice, a silver soup divider, two silver teaspoons, a plated sauce spoon, and six plated forks. All these articles are my property, and were in my house when I left on Friday morning. (Witness shown what appeared to be an old window curtain.) When I saw this before I thought it was very like a piece of window curtain I had seen in the house. There were similar short screens about the servant's room. I knew the pannel, as nearly as I recollect, about four or five years ago; she was housemaid for about two years, and went down to the coast some months with the family. Since then I recollect her calling at the house with a child in her arms, when she spoke to some of the servants, and was asking, I suppose, if we were all well. John Fleming

Cross-examined by Mr. Clark—My father, James Fleming, generally attended my office. He went about and collected some small weekly rents, of which I gave him the charge. The properties of which he collected the rents were old and decayed, and in the lower part of the town, about the Old Wynd. They were generally high houses, with common stairs, and the tenants did not stay long in them at a time. This was the way he was occupied about last July. When I left him on the Friday he was quite well. He was often ailing with cold, but he was quite well, I think, that morning. I think he was quite well when I returned on the Monday.

Did you know whether you could get in by the servant's bedroom window?—I did not; it might be snibbed inside.

Did you know that there were stanchions on that window?—

John Fleming There are stanchions; but it did not occur to me at the time that there were stanchions. The stanchions in the servant's bedroom window are quite entire. My first intention, if you will allow me to state it, was to go to the area to look into the servant's room window to see what I could see; certainly with the intention of opening the window and getting in if I could. I found a key in the pantry door, and took it out to see if I could get into the servant's room.

When you put the key into the lock did you press out any key inside?—I do not think it; the key went in freely; I did not hear any key fall inside.

Have you always thought so?—I do not know how to answer that question.

I will tell you how to answer—have you expressed that opinion to any one?—I do not think so; but if there had been a key in the door I think I would have found it.

Did you say to the policeman Cameron that the key fell into the inside?—I cannot recollect.

Did you say so to Dr. Watson?—I do not think I did.

Did you say so to Mr. Chrystal?—I do not think I did.

Will you swear that the door was locked at all?—Yes.

You can tell whether you said the key was inside or not?—I really cannot say.

When did you see the articles last before you missed them?—I saw them during the course of that week, when I went out of town on the Friday; we used some of them that morning at breakfast; they were placed in a sideboard in the dining-room, which was kept under the servant's charge.

Was it locked or open?—It was generally open; the only way that we can get into the area is through the pantry window; you may get in outside by climbing over the railing.

Lord Deas—The area is to the front?—Yes.

Is there a low door?—At the back there is a low door, but none to the front; there is a bleaching green and washing house behind on the level of the area at the lower part of the house in front; there is no area stair.

Mr. Clark—How was the pantry window wicket secured?—It was secured by a padlock, but it had not been in use for some time, and it has not been replaced by a new one.

Lord Deas—If a person got into the front area there was nothing to hinder any person to get into the window if the padlock was not properly affixed to the wicket?—No.

Was the window fixed in any way?—There was a snib upon it; I do not remember whether it was fastened that day.

Mr. Gifford—Do you remember raising the sash of the window?—Yes; and I found it open easily.

In raising the sash do you remember whether it was snibbed or not?—I really do not remember. I did not see any key, to

my knowledge, upon the floor inside the room; but I was very likely to have put my foot upon it if there had been such a key. John Fleming

Before this did you observe that there was a key in the servant's bedroom door?—I really could not say, as I was not in the habit of examining the servant's bedroom to see whether there was a key in it or not; there is a door that goes through the back wall to the back green, and a door at the back wall of the green that gives entrance to a lane. It was by that door that we took in coals and such things. I was a good deal excited that afternoon, and if it is thought I said anything about finding a key inside the servant's bedroom door I must have been misunderstood. I really cannot recollect of saying anything at all about that.

Lord Deas—Do you know what your father's age is?—I believe he was eighty-seven on the 9th of August last.

A Juror—Is it possible for a person to get into the house by the window if they were to get over the railing?

Lord Deas—You will observe that the witness said that there was nothing to prevent it if they were to get over the railing; if the sash of the window was not snibbed it could be lifted up and the wicket opened.

5. John Fleming, jun., examined by Mr. Gifford—I am a son of the last witness. I left my father's house in Sandyford Place at ten o'clock on the morning of the 4th July last, and went to Dunoon in the afternoon. I left my grandfather in the house in the morning. When at Sandyford Place I slept in the same bed with my grandfather. My grandfather was in the office on Friday, but he did not go down to Dunoon. I left Dunoon at eight o'clock on Monday morning. John Fleming, jun.

Lord Deas—When did you get to Glasgow?—Between ten and eleven o'clock.

Mr. Gifford—Did you go to the house then?—No, I went to the office. I did not see my grandfather in the office that day. I went home alone at four o'clock in the afternoon.

Who opened the door to you?—My grandfather. This would be about half-past four o'clock.

Did he say anything; tell us what took place?—I asked him where the servant was.

Did you speak first?—Yes.

Were you surprised at him opening the door?—Yes, I was surprised; he said, "She's away, she's cut; I have not seen her since Friday."

What more? Did you say anything to him, or did he say anything more to you?—He said that her door was locked.

What did you say?—I said it was very strange. Immediately afterwards my father came in. I asked if he (my grandfather) had never thought of opening her door?

John Fleming, jun.

Lord Deas—Was that before your father came in?—Yes, it was before he came.

Mr. Gifford—What did he say?—He said, "No"; that he thought she was away seeing her friends, and that she was coming back again. My father came in then, and I told him.

What did you say?—I said that she was off, or that she was there, lying down there (in the kitchen) dead.

Lord Deas—Who said that?—I did.

What did your grandfather say?—He said nothing.

Mr. Gifford—What was done then?—We all went downstairs to the kitchen.

Did you notice anything?—No.

What did you do next?—My father tried the room door, and found it locked; he then went into the store-room or pantry; we were standing in the passage.

Did you see what your father did in this pantry?—Yes, he opened the window.

Lord Deas—Did he lift up the chess of the window?—Yes; he lifted up the lower chess.

Do you know whether it was fastened?—I cannot say whether it was fastened or not.

Mr. Gifford—What took place next?—I went along the passage and passed to the back door.

Did you go out?—No.

What did you do then?—I opened the door to let the air out.

Why did you do this?—The air had a close smell.

Lord Deas—Was the door locked?—Yes; the door was locked with the key inside.

Mr. Gifford—What did you do next?—I came back to the room door.

Well, and where were your father and grandfather?—We were all in the passage.

And what took place after you went back to the room door?—My father took the key out of the store-room door, and put it into her door.

Lord Deas—Which door?—The door of the servant's room.

Mr. Gifford—And was the door opened?—The key of the store-room door opened it, and we then all went in.

Lord Deas—You then all went in at once?—Yes, we all went in together.

Mr. Gifford—And what did you see?—We found her lying there on the floor, just alongside the bed. She was lying with her head towards the door and her feet towards the window.

How was the body clothed?—The body was undressed and naked up to the middle. The face was downwards to the floor, and there was a cloth of some sort thrown over the upper part of the body and covering the head.

Lord Deas—Was anything said when you saw this?—Yes;

my grandfather held up his hands on seeing this, and said, "She's been lying there all this time, and me in the house!" John Fleming, jun.

Mr. Gifford—What did you do then?—We went upstairs.

All of you?—Yes; and my father went out, and came back with Dr. Watson.

You and your grandfather were alone in the house while your father was away?—Yes.

Did either of you do anything in the room while he was away?—No; nobody touched anything in the room while he was absent, and there was no one in the house except ourselves at that time. He returned with Dr. Watson, and shortly afterwards the police came into the house.

Did you make search, or help to make search, to see if anything was amissing in the house?—No.

(Witness shown Nos. 11, 12, 13, 14, 15, and 16 of inventory, being articles of silver plate.) Are these your father's property?—Yes; that is the plate that was in use in the Sandyford Place house.

Lord Deas—Up to Friday, 4th July?—Yes, up to that date.

Mr. Gifford—Look at the prisoner (who here stood up); do you know her?—I do; she was in service in my father's house more than two years, and also in our house in Dunoon. She was married out of our house.

Lord Deas—What do you mean? Do you mean that the marriage took place in your house?—No, but she left our house to get married about four years ago.

Cross-examined by Mr. Clark—Was the smell you felt in going down into the passage a strong smell?—It was a close smell, closeness in the air.

Where did you first feel the smell?—I did not feel a smell at all. It was just a closeness.

Was there any word of the servant Jessie going away on the Friday?—No.

Lord Deas—Not that you heard of?—Not that I heard of.

Mr. Clark—Was it intended she should stay with your grandfather?—Yes.

6. James Fleming[1] was called, his name, on being heard, creating a sensation in the Court. He entered the box nimbly. Fresh and healthy looking, apparently cool and composed, he repeated the oath with a distinctness that was heard all over the Court. Jas. Fleming

1 The text of the evidence in the present report is that of the "Copy of the Proceedings at the Trial," &c., printed by order of the House of Commons, which was reprinted from the *Morning Journal*. In view of the importance of James Fleming's evidence, it has been collated with the reports in the *Glasgow Herald*, the *Scotsman*, and the *North British Daily Mail*, and the principal variations are here shown within square brackets.—Ed.

Jas. Fleming Examined by Mr. GIFFORD—How old are you?—I was eighty-seven on the 9th of August last.

What is your employment?—Eh? I'm a little dull o' hearing, sir.

We will try to make you hear. How were you employed?—I was employed in my son's office to be generally useful. I took charge of letting and managing houses, seeing after mechanics working, and repairing houses. I lived in my son's house at Sandyford Place. I was there two or three years—all the time he had been stopping there. I knew Jessie M'Pherson.

When did you know her?—She was a servant wi' Mr. Fleming, and cam' back the second time. I first kent her when she cam' the first time to be a servant wi' my son.

How long ago is it since Jessie M'Pherson came to be a servant?—(No answer.)

How long is it since she left?—She gaed to keep a bit shop for hersel'. It will be—my memory is no very guid; I can't tell you exactly. She gaed ony way, her and anither comrade, and took up a bit shop and sell't grocery goods. It's a few years ago. She cam' back again.

How long ago is that?—It's—let me see—a year ago.

In July last was your son residing part of his time at Dunoon?—Yes; he has a cottage there, and spent part of the week in Glasgow and part in Dunoon.

Who had charge of the house?—Jess M'Pherson; she had the whole charge.

The other servants were at Dunoon?—Yes; but there was anither servant at hame besides Jess. It was anither servant that assisted her in the kitchen.

Did she go with the other servants to Dunoon?—No; she is a witness here the day. I canna tell ye her name.

Martha M'Intyre?—I daursay yes.

Or is it Margaret M'Innes; which?—(No answer was given.)

[Lord DEAS—No matter; she will tell you herself.]

Mr. GIFFORD—Do you mind the 4th of July last?—Yes.

Had you breakfasted at Sandyford Place that morning with your son and grandson?—I breakfasted there that mornin'. I dinna recolleck whether my son was gone or not, sir.

Did Jessie M'Pherson serve you that morning?—Yes.

Where did you go upon that Friday?—She had been thrang for three days wi' a washin', and she was finishin' the shirts and dressin' that day.

What o'clock?—And her maister's were laid by, and mine were finishin', an' they were hangin' on the screens, ye ken, at the side o' the fire, an' I cam' hame to my dinner at the usual time, aboot four o'clock, an' took my dinner; an' after I took ma dinner I had a custom of going up to the West End

Park an' takin' a walk after dinner. This was Friday, an' I went away the feck o' couple of hours. (Mr. GIFFORD—Stop a moment.) It was very wat thae days. I was vera much fasht wi' cauld feet, and there was no fire in the room, and I went doun to the kitchin fire to get ma feet warmed, and Jessie M'Pherson made my tea. Jas. Fleming

What o'clock?—I reckon it wad be weel on eight o'clock. She made my tea, and she poored it oot, and took a cup alang wi' me; and after the tea was by——

Lord DEAS—Was it in the kitchen you got the tea?—Yes.

Mr. GIFFORD—Well?—Then after I got my tea by, I yoked the readin'; I had always the papers in my pouch; and then I stopped till half-past nine o'clock.

In the kitchen?—At the kitchen fire. At that hour I said I would go and mak' ready for bed; and I went away to my bed up the stair. I left Jess M'Pherson working away in the kitchen, ye ken; and in the mornin' I was wauken't wi' a lood squeal.

Where is your bedroom; what flat of the house is your bedroom on?—It is a flat above the kitchen, ye ken. Weel, I was sayin' I was wauken't i 'the mornin' wi' a lood squeal; and after that followed ither two, not so lood as the first ane. But it was an odd kind o' squeal I heard, and I jumped oot o' bed, and I heard no noise. A' was by in the coorse o' a minute's time; in a minute a' was quate, and I heard naething nor saw naething. I took oot my watch; I kept the time below my pillow; and looked what o'clock it was. It was exactly four o'clock; a bonny, clear mornin'. I gaed awa' to my bed again. A' was quate. I thocht she had got somebody to stay with her. There was a woman she ca'd a sister o' her's—she bood to be in her room. [There was a body she ca'd a sister, and wis stoppin' wi' her, or else some ither body.] So when I heard a' was quate and no noise, I gaed away to my bed again, and wisna lang in it till I fell asleep again. I lay till about six o'clock o' the morning, and she always used to come up. I lay wauken after that. She always used to come up with a little porridge about eight o'clock. She did not come up that morning, and I was surprised she did not come. I wearied very much for her. I lay still till nine o'clock. Then I raise and put on my claes. I forget whether I washed myself before I went down [but I went doon the stair exactly efter that]; but I gaed down to her door and gied three chaps that way. (The witness here gave three taps.) I got no answer. I tried the sneck of the door latch, and fan' that the door was locked; [there was] no key in the door, and sae I gaed up till the storeroom. The storeroom and her bedroom was just adjoining ane anither maistly. I gaed into

Jas. Fleming the storeroom, and then I found what was a bit window in the area standing open. It did not use to be that way. I drew it to, and returned to the kitchen again. The fire was wake. I put on some coals on the fire. It was still burning. This was Saturday morning, ye ken. And after that the main door bell was rung. I went to the door. It was Mr. Stewart, the next door neighbour's, servant. I dinna mind her name. She wanted the len' o' a spade to clean the back door. She said their people were all away to the coast the nicht before. So I gaed doun to get the bit spade to the washing-house, and when I got to the washing-house there was nae key in it. I could not get the key, and the girl did not get the spade. At the same time, ye ken, when I got out to give the girl the spade, the back door was locked, and the key in the inside o' the door, ye ken. That was the way I gaed down to look for the spade.

What o'clock was it?—About eleven [four] o'clock, sir, I think. After that Mr. Watson, the baker's man, cam' wi' his van, and the bell was rung, and I gaed up. But did I tell you first about the main door being not locked?

No, tell us that?—It was not locked. The key was in the inside o' the door, and [the door] was on the latch; just snecked, ye ken, not locked. Sae whaever had been in, they had got out by the door; there is nae doubt o' that. An' so Mr. Watson, the baker's man, cam' wi' his van shortly after that servant girl was seeking for the spade, and I took a half quarter loaf. The man was sitting upon the cart; but he had a little boy that handed me in the loaf at the door. [So, always looking and wearying, wondering what was become of Jessie that she did not make her appearance,] I stopped in till about twelve o'clock, when I thought I would go to the office. I looked for the check key, and got it on a shelf in the pantry, and I locked the door and went away to the office [in Glasgae, and stoppet a wee while there, and] then I gaed awa' down to the Briggate to see a property that I had charge of. A water-pipe had burst there twa or three days before, and I went down to see if it was all right [and to see whether they had plaistered it up; it had to be plaistered up wi' lime, ye ken]. All was right, and I came awa' up again to the office, and stopped till about two o'clock. I then took the 'bus and gaed up to Sandyford; thinking, maybe, that Jess would be waiting till I gaed up. When I got up, all was quiet and no appearance [o' Jess]. I did not go out after that night, and made myself some bit dinner. About seven o'clock at night the bell was rung, and a young man came to the door. He said he was from Falkirk, and his name was Darnley. He said he promised to call on Jess when in the town. I said she was not in. He went away. My shirts [—there were a dozen

o' them—] were on the screens in the kitchen [set on the side o' the fire]. I laid them by one by one, off the screens, which were laid against the pantry door. [The screens were lying in the kitchen beside the pantry door. They had been laid or driven down. There was a pantry door they keep their things in, and the screens were either laid or driven ower upon it. So I took my shirts off the screens.] There was a room off the kitchen that my drawers and kist stood in. I laid by my shirts; there were two marked with [like] blood on them. I laid them [all] by, and laid these two on the tap [o' the ithers]. Jas. Fleming

Did you get any supper that night?—I made myself a cup of tea. This would be eight o'clock. I thought if Jess had gone away with any of her acquaintances, that she would make her appearance, but she did not. I sat up till after nine, and then went to bed. On Sabbath morning the bell was rung by the milkman, but I did not answer.

You supposed it would be the milkman?—Yes. Well, I made my breakfast again; a cup of tea and a boiled herring to it, and that was my breakfast. I made ready for the church. I went to the church in the forenoon, Mr. Aikman's, in Anderston. After the church skailed I went straight hame. When I was going to the church, Mr. John M'Allister, who was coming out of his house door to go to the church, spoke to me. In the afternoon, after I had had a bit of bread and cheese, I went to the church again. After I was home the lad Darnley, who had ca'ed before, ca'ed again, and asked if Jessie M'Pherson was in. [I said, "No."] He asked, "Is she at church?" I said, "I don't know." Says he, "If she comes out the town, will she come this way?" I said, "I suppose she will." He went away. I had no more calls that night that I recollect, and at half-past nine I went to bed. On Monday morning I rose at eight o'clock, as was usual, to go through the properties on that day. Some tenants paid weekly, and others monthly; but we had to go through every Monday morning to collect the rents. I went to the office and got my books, and gaed awa' to collect and to lift what I could. I afterwards went to the office, and gied in what cash I had gotten. I then gaed awa' hame to Sandyford; this would be about one or two o'clock. All was quiet, and I heard nothing. I kent that Mr. Fleming would be hame after he came up frae doun the water in the morning, and that he would be out for dinner. About four o'clock young John came in, and his father followed him. I told them what had taken place, and said I had not seen Jess M'Pherson since Friday [nicht]. My son, astonished, ran away downstairs, and his son and me followed him. He found her bedroom door locked, but had the "recollection" of trying the storeroom key, and it opened her

Jas. Fleming door. When he opened it he saw the murdered woman lying [near the empty bed]. Her head was covered either with a skirt or white sheet, which was all blood, and her body was naked as she was born, downwards; she was lying on her face. [So he was in an unco state tae, and] my son then ran and got in some of the neighbours, Mr. Chrystal and some others, and went to the Police Office. The police officers came directly, and took possession of the body. Dr. Fleming and Dr. Watson were also brought to the spot directly, but their presence was of no avail, ye ken, the woman was gone [; but it was regular that they should be called].

From the Friday night to the Monday morning, did you make all your own meals?—I was not very particular, but I made all that I needed.

Did you see [use] any silver spoons or forks?—I do not think I did. If I did, I only used a teaspoon; but I dinna mind.

(Witness shown the articles of silverplate libelled.) Are these your son's property?—Yes.

Were these things used in the house generally when your son was at home?—Always when he was at home.

Were they used on the Thursday and Friday before?—[There was none of it used on the Friday, ye ken.] They were used always when my son was at home.

Did you take any of that plate out of the house?—Never.

Did you give them to anybody on that Friday, Saturday, Sunday, or Monday?—I did not. I never gave them to any person.

Look at the prisoner; do you know her?—Yes. I first knew her when she was a servant with John.

How long is that?—She left when the other girl came back, ye ken.

Is it some years ago?—It will be three years ago, I'se warrant, but my memory is not so good.

Have you seen her since she left your son's service?—Yes.

Where?—She came up along with her husband to pay a visit to Jessie M'Pherson; I saw her that night in Mr. Fleming's house, Sandyford Place; that is twelve months ago.

Did you ever see her anywhere else?—Yes; she invited me to see her house [and I went down to see it].

When?—A twelvemonth ago.

Did you ever see her on any other occasion?—I saw her in her own house at another time; that was before she flitted to that other [her last] house.

How long ago?—It would be two or three years ago. I saw her also at the examination in the County Buildings. The Sheriff showed her to me there.

Excepting at these times you have mentioned, you have never seen her, did you?—Not since she left my son's service.

Jas. Fleming

Did you ever give her these articles (referring to the silver plate)?—No, never.

Did you ever tell her to pawn them?—No, never.

Did you see her on the Friday evening that Jessie M'Pherson went amissing?—No.

Nor on the Saturday?—No.

Did you ever get any money from her?—Never.

Did you give her any money on that Friday or Saturday?—I did not.

Did you ever call at her house excepting on the occasions you have told us about?—I only called twice, to my recollection.

And these are the two occasions you have already referred to?—Yes.

Have you money in the bank?—Yes; a little. I have £150 in the Savings Bank and £30 in the Royal Bank.

(Witness shown the two bank books libelled.)

Are both of these your bank books?—Yes.

You told us, Mr. Fleming, that on the Saturday morning you went into the pantry and found the wicket open?—Yes.

Did you open the glass window?—No.

You say that you drew to the wicket?—I did.

Tell us how you got that done?—It was straight open. It opens outwards.

Did you put out your hand to pull it to?—Yes.

To do that had you to lift the window?—It was a little window, ye ken, inside of the big window.

How did you get hold of the window [wicket] to draw it to?—I put out my hand and drew it tae.

Did the glass window not prevent you?—I forget. [It was cast iron.]

Is there not a glass window to the pantry?—Yes.

Was it open or shut when you went into the room?—It was open.

The glass window was open?—Yes, or I could not have got out my hand to draw it tae, ye ken.

Well, did you open the glass window, or did you find it open?—I found it open.

The glass window?—Yes. [I opened nothing, but just put oot my hand and drew it tae.]

Cross-examined by Mr. Clark—Was your watch right that Saturday morning?—Yes.

You know that?—Ay, it gangs very reg'lar.

Therefore, you are sure about the hour you have given us?—Yes; exactly four o'clock, and a fine clear morning.

You are quite sure that you lay in bed till nine o'clock?—Yes.

You were not out of your bedroom or dressed till nine o'clock or thereby?—I didna leave my bed till nine o'clock.

Jas. Fleming Who was the first person that you spoke to on that Saturday morning?—On Saturday morning, it was the girl for the len' o' the spade.

Her name is Brownlie, I believe?—I dinna ken. She's Mr. Stewart's servant.

What time was that?—About eleven o'clock.

And until she came there was no one in the house that you had seen?—No one that I saw.

But was there any one?—No.

When does the milk usually come?—It aye came betwixt eight and nine o'clock.

When does it usually come on Monday morning?—It came aye about one time, but I didna require any on Monday morning as I had tae gang awa' early tae the toon.

Why did you not require any milk on Monday?—I had tae gang awa' early tae the toon, and there's a milk shop in our property in the Briggate, an' I went in there an' got a ha'penny roll an' a mutchkin of milk. That was a' the breakfast I got on Monday morning.

Did the milk come upon the Saturday morning?—I don't think it came.

It is brought to the front door?—Always to the front door, but it was not locked, nor a chain on it, nor anything but the latch [but it was not locked that morning; it was just on the chain, and nothing else].

But did you hear any ring at the front door bell at the time when the milk should have come on Saturday morning?—No.

Do you swear that you did not open the door before that woman—Mr. Stewart's servant—came for the spade?—Yes.

Did you not open the door to the milkman that morning?—No; I don't recollect the milkman coming [getting any milk] that morning.

Did you not open the door to the milkboy, and tell him that there was no milk required that morning?—There was one that I told that to. I recollect that. [There was one at the door, I tell you, but I do not recollect.]

You remember that now?—I do.

Then it was not true that Mr. Stewart's servant was the first person to whom you opened that front door on Saturday morning?—It was Mr. Stewart's servant to whom I opened the door first.

Did you open the door for the milkboy?—No, I didn't [say so]. Mr. Stewart's servant was the first that I opened the door to, and then to the baker.

Did the milkman come to the door on Saturday morning?—I'm sure I canna charge my memory particularly about the milkman on Saturday morning.

Mr. Fleming, you told me a little time ago that you remember

him (the milkman) coming on Saturday?—I did not require any milk. Jas. Fleming

I don't care about that; you told me that you remembered that the milkman came upon that Saturday. Did the milkman come on Saturday or did he not?—[Witness, after a pause —I am sure I cannot declare that.] I'm sure I really canna answer that question.

Mr. Fleming, can you tell me whether you opened the door to any person before that servant of Mr. Stewart came for the spade?—No; I don't think I opened the door to any person till she came. I am sure of that. It was about eleven o'clock that she came, and the baker came shortly after.

Are you sure, therefore, that the milk did not come that morning?—I am sure that I did not get any milk that morning.

Never mind that; but are you sure that it did not come? —I rather think it did not come.

Could it have got in that morning without your opening the door?—There was no milk brought in.

Did you refuse to take milk that morning?—Yes.

Did you refuse to take in the milk that Saturday morning?— I refused to take milk; I did not require it.

[Lord Deas—Are you sure, Mr. Clark, that he fully understands the question?

Mr. Clark—I am persuaded he does, my lord.

(*To Witness*)—]

Did you say to any one that you did not need any milk that morning—that Saturday? Did you say that to the milk-boy?—I told him that I did not need it.

[Now, Mr. Fleming, do not let us mistake about this matter.] Did you say to the milkboy that you required no milk that day?—Yes; I think I did. This was the morning that I got no milk at all.

[A Juryman—Make sure that there is no mistake about the morning, if you please.

Mr. Clark—I am very anxious to see that there shall be no mistake in the matter. (*To Witness*)—You understand, Mr. Fleming, that the morning I am speaking about at present is the Saturday morning?—Yes.]

Just attend, Mr. Fleming. On that Saturday morning you said to the milkboy you required no milk at that time?— Yes.

Well, at what time of the day did you say this?—The boy rang the bell and I said I did not need any. [The boy, ye see, would ring the bell, of course, and I would just say, "I do not need any milk."

Lord Deas—He might have said that without opening the door.

Jas. Fleming

Mr. Clark (*to Witness*)—Could you have said that without opening the door?—Yes; I could take the front door off the sneck, leaving the chain fastened, and speak to the milkboy. I think I left the front door on the chain.

Lord Deas—Are you sure, Mr. Clark, that he fully understands you?

Mr. Clark—I am trying to make it as plain as I can, my lord; I do not wish to take any advantage.

Lord Deas—I have no doubt of that.

Mr. Clark (*to Witness*)]—Had the door a chain?—Yes.

Could you have opened the door and spoken to the milkboy without taking off the chain?—Yes.

Did you do so?—Yes.

[Now, did you do so, Mr. Fleming? Are you quite sure that the chain was not on the door on Saturday morning?—I am quite sure of that.

And to speak to the milkboy, if you did speak to him, you did not, you say, require to take off the chain?—No.]

Now, Mr. Fleming, do you remember going to the door that morning and opening it to the milkboy?—No, I did not let him in.

Did you see him at the door?—It's likely I would.

Mr. Fleming, do you remember of speaking to the milkboy on that Saturday morning?—I would just say to him that I would not require any milk.

Do you remember [saying so] seeing him at the door?—Yes, I think I do.

Did the bell ring when the boy came?—It's most likely it would.

But do you remember if it rung?—Well, I would not have gone to the door if the bell had not rung.

Well, but you remember if it rung?—I cannot mind everything.

What time of the morning was it that the milkboy came?—It was just about his usual time—about [betwixt] eight or nine o'clock in the morning.

Were you dressed at the time the milk-boy came?—On Saturday morning, you mean?

Yes, on Saturday morning?—I can't say that; I suppose I would. [Yes: there is no doubt but I would be dressed.] I got up about nine o'clock that morning.

Well, if the milkboy came about eight or nine o'clock, how could you be dressed if you did not get up till nine?—(A long pause here ensued, witness finally replying slowly)—Whether I was dressed or not I cannot charge my memory. I might not be dresesd.

You said that you lay in bed till about nine, then got up and dressed yourself?—Yes.

Is that true?—Yes.

Why did you not let Jessie open the door when the milkboy came?—On Saturday morning, you mean?

Yes, on Saturday morning?—Jessie, ye ken—it was a' ower wi' Jessie afore that. (Sensation in Court.)

[I don't doubt that, Mr. Fleming.] Why did you not let Jessie open the door to the milkboy when he came?—There was nae Jessie to open the door that morning.

Lord Deas—You had better put the question another way. Ask him why he opened the door himself that morning.

Mr. Clark—Willingly.

[Why did you open the door when the milkboy came in place of allowing Jessie to open it?—I was just saying to him—the chain was on—we did not require any milk. She was deed before that.

Mr. Clark—My lord, there is one matter in this answer which, I think, is very important. He says the chain was on. (*To Witness*)—Mr. Fleming, I must have an answer to this question—why did you go to the door and open it when the milkman came, and why did you not allow Jessie to open the door?

Witness—On Saturday morning, ye ken, Jessie was deed; she couldna open the door when she was deed.][1]

Quite true, but why did you open it? Did you know that Jessie was dead [when the milkman came to the door]?—No, I did not. (Said sharply and with emphasis.)

If you did not know that Jessie was dead, why did you go to the door?—Ye ken I was up, and I would just go and open the door [to say that we didna require any].

Did you leave Jessie time to open the door before you opened it?

Lord Deas—You had better ask—Did you wait some time before you opened the door?

Mr. Clark—Well, did you wait long before you opened the door?—Oh, ye ken, I went down the stair, and through the house before that, and got nae answer.

How long before the milkman came would you go through the house?—Through the house? I suppose it would be nigh aboot the time. I knocked three times, ye ken, at her door, and got nae answer, and this was after nine o'clock.

Are you quite sure that it was after nine o'clock?—Yes. (Answer given as if doubtingly to a question heard indistinctly.)

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1 In the report of the trial by the *North British Daily Mail* this answer is given as follows:—"*We* knew that Jessie was dead and could not go to the door." The significance of this statement, if made, is obvious.—Ed.

Jas. Fleming

Lord DEAS—Put it again; perhaps he misunderstood you.

Mr. CLARK—Are you certain that this was after nine o'clock?—Yes, after nine o'clock [I am quite sure; the milkman whiles does not keep the appointed time.]

Did you go downstairs before you dressed that morning?—Yes; it is likely I would. [I would be unshaven and unwashed, ye ken, and might go down undressed.]

I speak about Saturday morning?—I can say no more than I have. I have told you everything in my heart. The memory of a man of seventy-eight years of age is not so fresh as a young man's. Be as easy as ye can. I am willing to answer every question.

(A Juryman called attention to the fact that Mr. Fleming had just stated his age to be seventy-eight, whereas he had formerly given it as eighty-seven.)

Mr. CLARK—How old are you?—I was born 9th August, 1775, and am eighty-seven past.

On Saturday morning, were you down in the kitchen before you put on your clothes?—(Reflects)—Before I put on my clothes? [I might.]

Did you chap at Jessie's door?—Yes.

Had you all your clothes on then?—I could not say I was completely dressed. I might have had part of my clothes on. [When she did not answer me] I tried the sneck, but the door was locked, and the key away. What more could I do?

When the milkman came on Saturday morning, was it before or after you had chapped at Jessie's door?—I could not be pointed wi' that question [whether it was before or after].

Did you take in any milk on Saturday morning?—No, I did not require it; I could take my breakfast without milk as well as with it.

Had you your breakfast on Saturday morning?—I made mysel' a cup o' tea.

Had the refusal to take milk in on Saturday morning anything to do with your not having got your porridge that morning?—No; I could take my porridge wanting my milk, and can do so yet. The servant was in the habit of getting in the milk in the morning [for her use. She would get a larger quantity when she was alive].

When you first saw the back door on that Saturday morning, was it locked on the inside?—It was locked on the inside, and the key in [out of] it.

And when you first saw the front door on that morning, how was it?—It was on the latch. There was no lock or chain.

You are sure of that?—I could give my oath on it.

You never took the chain off that front door?—There was no chain on it.

And you did not take it off?—No.

Evidence for Prosecution.

Jas. Fleming

Now, you heard a "squeal" about four o'clock on the Saturday morning. Where did this "squeal" come from?—When I jumped out of my bed, and heard the squeal, I thought it might be on the street. Next a squeal followed twice, and then I heard it was down below.

How long would it be between the first and last squeal?—I think it would be bare a minute; then all was quiet as if it never had taken place.

Was it the same voice that squealed each time, so far as you could judge?—Yes, but not so strong.

Was it a squeal as of distress?—It was a squeal like as if something [somebody] was in distress.

Did you recognise the voice?—No.

What did you think of it at the time?—I thought that Jessie had got some person in to stop wi' her [after I had gone to bed].

And what did you think had caused the squeal at the time?—Oh, I could not say what caused it; but I heard it just as if something [some person] was in great distress, and it was by in a minute.

Why did you not go down?—It was all quiet afterhind, and I did not think of going down. If the noise had continued any time it would have been alarming, and we would have had to call in the police.

When you found in the morning that Jessie was not there, and her door locked, why did you not send out for the police?—[I was aye thinkin' she was awa' wi' some o' her freens.] It never occurred to me to send for them [; that there was murder or anything else o' that kind gaun on in the hoose].

In the course of the night you had heard squeals indicating that some person was in great distress, and you did not see your servant in the morning. Can you tell me why you did not in these circumstances give information to the police?—I did not think about anything at the time. I was always looking for her coming back, and if any drink or anything had been gaun, she might have been induced to go out, and would be back, and I never thought of calling in the police. I was looking for her back every other minute. I thought she would be back, and it never occurred to me [trouble or murder, or] any such thing.

Her going away was a very unexpected thing to you, was it not?—Yes.

When she did not come back all Saturday, why did you not send for the police?—I did not think of sending for them.

When she did not come back all Sunday, why did you not send for the police?—I kent Mr. Fleming would be home on Monday, and would put all things right.

Was there anything in the kitchen that attracted your attention upon the Saturday?—There was naething.

Jas. Fleming Nor upon Sunday?—No; nor upon Sunday.

Nor upon Monday?—Nor upon Monday.

You were a great deal in the kitchen during these three days?—It was gey wat thae days, and I was glad to go down to heat my cauld feet. I mended the fire in the morning. But it was in, so I had to put on some coals.

You kept the fire burning?—Yes, and I put on coals [a gathering coal] at night.

Did you see any blood in the kitchen?—None.

Did you see any blood on your shirts?—When I was laying them by there were two which were marked.

Did you not think that queer?—I never thocht of blood [murder, or ony trouble of that kind]. It never struck me there would be anything which would cause the blood.

How do you, Mr. Fleming, account for blood upon your shirts?—I know I mentioned to [the Fiscal and them] him who was examining me that I saw on one of the shirts something like paint or iron ore. (Shown three shirts, No. 49 of inventory.) I see two of them marked red.

That is what you saw?—That is what I seed.

[Did you not think at the time that it might be blood?—I thought that it might be blood.]

When did you notice this blood on your shirts?—On Saturday night [when I was laying them past]. (The jury here examined the three shirts.)

Mr. Fleming, when you saw the blood upon the shirts, how did you account for its being there?—I can't say.

Did you not think something was wrong?—No, I did not [it never entered into my head].

When you had heard squeals of great distress, and could not see Jessie, had not even seen her for a day, and also found her door locked, as well as blood on your shirts, did you not, Mr. Fleming, think that something was wrong?—No; I never thocht anything was wrong.

It never occurred to you that anything was wrong?—The squeals were only for a minute, and I did not give heed to them. I never thought on the matter.

Why did you not get Jessie's door opened?—Mr. Fleming opened it.

Why did you not get it opened?—I never had the recollection to take that key off the other door. If I had thocht of it I would have done it.

Why did you not send for some one to open it, you who are accustomed to that sort of thing: to get doors opened and locks repaired?—I didn't do it. [All I can say is, that I didna think of it.]

When Darnley came upon Saturday, did you know he was a friend of Jessie's, and did he tell you he was from Falkirk

for the purpose of seeing her?—He had been in town along with other two young gentlemen, who were waiting upon him when he came to the door, and he said he had to go away in the train at half-past eight o'clock. He, however, called again upon the Sunday, as I told you. Jas. Fleming

Why did you not tell Darnley Jessie was amissing for so long a time?—I did not tell him; I had no business to tell him.

Were you not anxious about Jessie?—I was looking for her every minute to come back.

Did he say he had stopped over night to see Jessie?—He said he had promised to call on her.

Did he not mention he had stayed over night to see Jessie?—No; he never mentioned that.

Why did you not tell him on Sunday night that she had been away for two days?—He only stopped a minute, and I had no occasion to tell him.

Was she ever out for such a length of time before?—She had often been out to see her friends [has been out for the day].

But she told you where she was going?—Yes.

Did you not make inquiry at the shops about her?—No.

Did you tell Mr. M'Allister about her absence when you saw him on Sunday?—No; he asked me if I was going to church. [I saw him coming out of his own door.]

Was Mr. Sloan in your office on Saturday?—Yes.

He is your son's confidential clerk?—Yes, I saw him upon Saturday.

Did you tell him anything about it?—No, I told nobody. I was expecting her every hour and every minute.

When did you see your son first?—Upon Monday, after he came to his dinner, about four o'clock. I saw my grandson at the same time, as they both came home together.

Now, Mr. Fleming, did you look for silver spoons when you wanted to take your meals?—No, I did not. I did not require them. I had a teaspoon; it was enough for me.

What sort of a teaspoon was it?—It was a silver teaspoon.

Was that teaspoon left in the house afterwards?—I ken naething about it. I had no charge of the silver at all; Jessie had the whole charge.

Where did you get that silver teaspoon?—There was always a silver teaspoon in the kitchen. I sometimes have seen tablespoons in it.

Do you know what has become of that silver teaspoon?—I tell you I ken naething about it; I took nae charge.

What had you to your dinner on Saturday?—I was not very particular for my dinner; I had a dish of ling fish that I had steeped. It served me baith Saturday and Sabbath.

Had you no other teaspoon than the silver teaspoon?—I had none.

Jas. Fleming You did not look for any?—I did not need them.

Or fork?—I used a fork.

What kind of fork?—Just a table fork; it served the table many a time.

Did it ever occur to you that Jessie, your servant, had run away?—No [I never thought of that].

What sort of dress had you on that Friday?—I had on the dress that I usually wear. I had on a pair of mixed trousers, black vest, and black coat.

Had you a brown dress at that time at all?—The trousers were brownish.

And the coat?—I had a brown coat, which I sold to a person buying them.

When was it sold?—It might have been two or three weeks afore this took place.

To whom did you sell it?—I sold it to a person named Paton, [one of the tenants,] along with some other clothes.

Is that Daniel Paton, of the Bridgegate?—Yes.

Did you never have a brown coat after that?—No.

Are you quite sure you never saw the prisoner within twelve months?—Yes; unless at the examination in the County Buildings.

Had you any quarrel or dispute with Jessie M'Pherson?—Never.

Of any kind?—No.

You read the newspapers regularly, you say?—Yes.

Do you use your spectacles when you read?—I have got a pair of new ones.

Did you ever use them before?—I got a present of them, and have got a pair of new glasses put in.

When you read, did you use spectacles till yesterday?—No; I could see weel eneuch to read without them—at least, gey weel.

Was no milk taken in till the Tuesday?—On the Sunday I did open the door for milk, and there was none taken in on Monday. [There was no milk taken on Sunday, Monday, or Tuesday. Sometimes I did not even open the door when the milk came.]

Lord Deas (to the jury)—Have you any question to ask?

(There was no reply; and, addressing Mr. Fleming, his lordship said)—Now, you may go.

E. Watson 7. Ebenezer Watson, physician, Newton Terrace, examined by Mr. Gifford, deponed—I am a physician in Glasgow, and know Mr. John Fleming, accountant. He called upon me at my house on Monday, the 7th July, about five o'clock in the afternoon. I went to his house with him.

Well, tell us exactly what you saw, and what you did there?—On the way there Mr. Fleming told me——

Lord Deas—You are not to tell us what Mr. Fleming said; tell us what you saw and did.

Mr. Gifford—What did you do?—He took me down to the laundry of his house, and there I saw the dead body of a woman.

Describe how it was lying?—It was lying on the face, the back being uppermost. The upper part of the body was covered with carpet; the lower part was not covered; it was naked. I saw, likewise, marks of blood upon the floor. I said to Mr. Fleming, "This is evidently not a suicide; you had better call in the police." He did so, and at his request I remained in the house till the police and the police surgeon, Dr. Joseph Fleming, arrived, with whom I again descended to the room, and examined the body. We removed the carpet from the upper part of the body, and found various wounds upon the head, the face, and the neck, and also upon the wrists of the body, with one remarkable bruise upon the lower part of the back. The body was at that time cold and stiff. We had it turned over, and examined it as well as we could, without making a thorough inspection of the body. Of the various wounds there was one, a very long one, across the forehead. The bone was cut as well as the soft parts. There were several similar wounds on the back of the head. The right ear was cut in a great many places, and the bone behind it was fractured and broken into small fragments. The right side of the lower jawbone was likewise fractured in several places, and the soft parts cut right down upon the fractures. The neck was also wounded deeply upon the right side. The wounds upon the wrists were one on the back of one wrist, and another upon the front of the other wrist, but I cannot say which wrist had the wound on the back and which on the front. They were clean cuts through the skin down upon the tendons, which seemed to me to be unhurt. I then examined, with Dr. Fleming, marks of blood, which we traced from where the body lay through the passage into the kitchen, and I also noticed several marks, apparently of blood, upon the door of the kitchen, and on the door mat in the kitchen doorway. The marks upon the kitchen door were inside, and were about a yard and a half above the floor. The mat was stained with blood, apparently, and when I attempted to lift it I found that it adhered to the floor of the kitchen doorway. I thought it did so from blood having coagulated under it. I then went upstairs, and, after a few words with Mr. Fleming, I took my leave. It was with the police surgeon, Dr. Joseph Fleming, that I made this inspection.

You say that you could trace blood marks from the room where the body was lying to the kitchen door; what like were they?—They were a trail like as if the body, while the blood

E. Watson was fluid, had been dragged through the kitchen into the laundry, the sleeping room of the servant.

What kind of a floor is the lower lobby of the house?—It is a stone floor of a very dark blue colour. The kitchen is the same kind of a floor, and the room has a wooden floor.

You said that you noticed blood marks upon the inside of the kitchen door; did you notice any other blood marks in the kitchen?—Yes, on the other side of the jawbox there was a slight mark.

On anything else in the kitchen?—No.

Was there no part of the kitchen floor that you observed anything peculiar about?—No.

Did it appear as if it had been washed?—Well, it did, but it being of a dark blue colour I could not tell whether it had been recently washed.

Did you observe any blood marks in the room where the body was found?—Yes; between the body and the door.

Was there any considerable quantity of blood?—Sufficient to make it quite remarkable. It had the appearance of the body having been dragged in when the blood was warm.

Was there any other part of the room where there were marks of blood?—I observed marks of blood upon a white basin, and likewise upon the stand; but I did not observe any other marks of blood in the room.

To what extent was the body dressed? What had it on?—It had on a shift and a jacket—a flannel jacket.

Lord Deas—On the upper part of the body?—Yes, on the upper part of the body.

Mr. Gifford—Did you form any opinion how the different wounds had been inflicted; with what kind of instrument?—Well, my opinion was that it must have been a cutting instrument of considerable weight.

[Shown an iron chopper or cleaver, marked No. 4 in inventory, a cleaver evidently not new, with a short handle and a long curved blade.] Look at that; was it an instrument like that?—It could have been that instrument. At the same time, it was my opinion that the cuts on the wrist were not made by this cleaver, and I think that it must have been a sharper instrument that made the cuts in the wrist, and when I said that might be the instrument I referred to the wounds on the head and neck and face. The wounds I observed were sufficient to produce death.

Did you notice any peculiarity about the wounds on the head?—That on the forehead was made almost transverse, and those on the neck were sloping cuts, sloping across like that. (Witness here placed his left hand aslope on the neck, and the right across the brow, illustrating the position and form of the wounds.)

Was there any probability of these wounds being self-inflicted?—Oh! I cannot think they were self-inflicted. It is quite impossible. E. Watson

Cross-examined by Mr. Clark—Doctor, you said at the beginning of your examination that this was not a case of suicide. What led you to make that observation?—The marks of blood on the floor, and other things, caused me to think it was not suicide.

Was there anything said about a key?—Yes.

What was it?—When Mr. Fleming and I were going to the Sandyford Place house, he said he had found the room door locked on the inside.

Lord Deas—Who said that?—Mr. John Fleming, master of the house. He stated he thought he had seen a key in the lock of the door inside.

Mr. Clark—What did he say became of the key?—He had taken a key from a neighbouring door, and opened with it the laundry door.

Lord Deas—The servants' room?—Yes, the door of the servants' room.

Mr. Clark—But, about the key—what became of the key in the inside?

Lord Deas—He said nothing about the key.

Mr. Clark—Yes, my lord, he spoke of a key inside. (To witness)—Did Mr. Fleming say anything about the key?—Yes, he said he thought the key was on the inside.

But did he say how he had got rid of the key?—I am not quite certain, but I think he said that he had struck it out, and that it fell in the inside.

Did he say whether he heard the key fall?—No, I do not think he did.

Was he quite collected when he spoke of the key?—No, he appeared very much excited.

Did old Mr. Fleming hear him speak of it?—No. It was said before we reached his house, on going from mine to his.

Did you hear him repeat that saying about the key?—Yes, I think he did, when the policemen were there.

Lord Deas—You think you heard him repeat that statement, or some such statement?—Yes.

Mr. Clark—The same statement?—Yes.

What you heard Mr. Fleming say was, that there was a key inside of the door, which he had pushed out?—Yes.

Now, you say that there was a remarkable bruise on the lower part of the back?—Yes.

Would you be good enough to indicate where it was?—It was on the lower part of the backbone.

Well, but would you indicate the exact spot, either on my body or yours? There's my body (here the learned counsel

E. Watson turned his back towards the witness, who placed his hand near what is known as the "small of the back.")—It would be there.

Lord Deas—The lower part of the backbone. That will do. I can't write down this as you give it. I'd require to draw it.

Mr. Clark—Very well, my lord, the place indicated is the lower part of the backbone, near the spine.

What did you think had caused that wound? What is your opinion as to what caused it?—It might have been produced by a blow from a blunt instrument, or it might have been the result of a fall.

What would you say was the most likely instrument to form that bruise?—I formed no opinion at the time.

Have you formed any opinion now?—No; there are many instruments which could have produced it.

Have you not said already that the wound had been caused by a heavy shoe?—I never said that was the only cause.

Was it ever your opinion that it was the most probable cause?—No.

Would a knock from a heavy shoe account for the bruise?—Quite well.

Must it have been a violent blow?—It must, and have been forcibly given.

Must it have been given by a person with great force?—Yes.

Lord Deas—If it was given by a person at all?—Surely, my lord.

Mr. Clark—Were any of the wounds in the head inflicted by a flat instrument?

Lord Deas—You mean by the flat surface of an instrument?

Mr. Clark—I understand that the doctor has been speaking of the wounds on the head being inflicted by the cleaver?—One of the wounds on the head might be inflicted by that instrument, used laterally.

Is a hammer not the more likely instrument?—Quite as likely.

To produce that wound?—What wound?

The wound behind the ear?—If the wound behind the right ear, yes.

Was the wound across the nose fitted to produce stupor?—Not necessarily.

Was it likely?—I should say it was rather likely, but not necessarily.

Is it the wound across the bridge of the nose you speak of?—Both wounds. They might not necessarily lead to stupor.

Was the bone cut through in two places?—Yes

Would that be the result of the application of great force?—I think it would.

It was the lower jawbone. Is not that a very difficult bone to cut through?—Yes, it is. E. Watson

The most difficult to break of the whole body?—Yes, a dense, tough bone. The wound in the neck might have produced death from hæmorrhage from the large vessels included in it, and the repetition of the blows upon the head might collectively be the cause of death.

By Lord Deas—I mean the greater wounds upon the head, though not individually necessarily mortal, yet, being repeated, might be the cause of death.

Mr. Clark—Were the wounds on the forehead and on the neck likely to produce death?—Do you mean immediately?

I mean necessarily. Not immediately necessarily?—They would not have produced death at the time, but at a distance they might.

Were they mortal wounds?—I don't think so.

8. Joseph Fleming, surgeon of police, examined by Mr. Gifford, deponed—On Monday, 7th July, I was called to Mr. Fleming's house, Sandyford Place, and went thither about half-past four o'clock. I found Dr. Watson there, in the room where the body of deceased was lying. Dr. Macleod went with me on the following day, and we made a post-mortem examination. (Reads Report No. 56.) Jos. Fleming

Glasgow, July 8, 1862.

The undersigned this day, by the authority of a warrant signed by Alexander Strathern, Esq., Sheriff-Substitute of Lanarkshire, made a post-mortem examination at No. 17 Sandyford Place, of the body of Jessie M'Pherson, which had been found under circumstances of great suspicion in a front room in the ground floor of the above house. [Here Lord Deas remarked to Dr. Fleming, as a police surgeon, that it was proper to state there was matter here which was not suitable to a medical report.] The body was lying on its back on the floor, close to and in front of the bed, the clothes of which were heaped together, and in many places deeply stained with blood. The lower limbs of the deceased lay fully exposed, and a piece of carpet was thrown carelessly over the head and trunk. On removing the carpet the body was seen to be dressed in a chemise and a knitted worsted jacket. These clothes were all quite damp, and much stained with blood. The neck and chest appeared to have been partially washed. The furniture of the room was in confusion. Large drops of blood were seen on the floor, and that even at a distance of 6 feet from the body. On further examination it became apparent that the body had been dragged from the kitchen (which lay to the back of the house, and where evidence of a

Jos. Fleming

severe conflict was obtained) along the lobby, to the apartment in which it was found, and also that imperfect attempts had been made to obliterate the traces of this removal. The deceased was identified by Mr. James Fleming. She was of ordinary stature, and apparently about thirty-five years of age. There was no cadaveric rigidity except in the ankle and knee joints, and the body was perfectly cold. There were no signs whatever of decomposition. The head was dreadfully mangled, and the hair was dishevelled and matted with blood. Two deep incised wounds passed transversely across the bridge of the nose, dividing the soft parts and the bones. Another transverse wound, $3\frac{1}{2}$ inches long, crossed the forehead in the middle line, and cleft the outer table (only) of the skull. In the right side of the neck eleven wounds could be distinctly distinguished. These partook partly of the character of lacerated, contused, and incised wounds. The right ear was destroyed, and the right half of the lower jaw broken into fragments. Some of these wounds penetrated deeply throughout their whole extent, while others only passed deeply at their anterior extremities, and got more and more shallow as they proceeded backwards. Some of these wounds also were not continuous throughout their whole length, the contact of the instrument with the tissues being at points interrupted. The great vessels of the neck were destroyed, and the outer table of the skull much injured, just below the right ear. Ten wounds of much less extent, and of a less severe character than those found on the right side, were observed on the left side of the neck. A few shallow incisions existed also on the back of the neck. Midway between the right ear and the crown of the head the scalp was divided by two cuts, each $3\frac{1}{4}$ inches long, which had run into one another. A third incision lay close to these, and beneath these the skull was deeply cut, but not divided in all its thickness. Nearer the forehead than these incisions, and still upon the right side of the head, a large irregular wound was found, formed by the coalescence of several incisions, and the skull underneath was irregularly but completely cleft, part of its outer table being wholly detached, and a piece about the size of a florin driven in and pressed upon the brain. The brain was here exposed, and, as was subsequently found, the membranes were wounded to the extent of about $\frac{1}{8}$ of an inch. Three other severe scalp wounds existed on the right lateroposterior aspect of the head, and these were all accompanied with injury of the outer table of the skull. A further small wound, without injury to the bone, was found more towards the forehead than any of those last described, and between them and that on the frontal bone. In opening the head the membranes of the brain were seen to be uninjured, except at the limited spot above noted, where several wounds were concentrated, and where alone both tables

of the skull were penetrated. The viscera of the chest and abdomen were free of disease or injury. All the wounds on the head and neck, with the exception of the two on the bridge of the nose and that on the forehead, which were transverse, sloped from above downwards, and from behind forwards. The wounds on the right side of the neck were much more severe than those on the left, and it was only on the right side that the bones of the skull were injured. Jos. Fleming

A large ecchymosed spot existed on the top of the right shoulder, and another presented itself on the middle and back part of the left upper arm. There were flesh wounds of greater or less depth and extent on both hands and arms. The right hand was dreadfully mutilated. One deep incision divided the forefinger, and another the knuckle. There were nine distinct wounds on each of the hands and wrists. Some small abrasions were seen on the outer aspect of each knee, and the skin of both knees and legs were abraded and soiled on their anterior surface, and both feet were extended to the utmost. Fæces escaped from the anus, and the abdomen afforded evidence of the deceased having at one time given birth to a child.

The reporters consider themselves justified in drawing the following conclusions from their examination of this body, and the place where it was found:—

1. That this woman was murdered, and that with extreme ferocity.
2. That her death had taken place within three days.
3. That a severe struggle had taken place before death.
4. That such an instrument as a cleaver, for cutting meat, or a similar weapon, was that most likely to have caused the fatal injuries found.
5. That the injuries had been inflicted before or immediately after death.
6. That all the wounds on the neck and head, with the exception of those on the nose and forehead, had apparently been inflicted by a person standing over the deceased as she lay on her face on the ground.
7. That the comparatively slight degree of strength shown in the blows would point to a female, or a weak man, as having inflicted them; and

Lastly, that the body had been drawn by the head, with the face downwards, along the lobby from the kitchen to the front room.

This is the truth on soul and conscience.

Geo. H. B. Macleod, M.D., F.R.C.S.
Joseph Fleming, Surgeon.

Mr. Gifford—You say in your report that "the body was lying on its back on the floor, close to and in front of the bed,

Jos. Fleming the clothes of which were heaped together." Would you explain what appearance the bedclothes presented?—The clothes were all heaped together upon the bed, and stained here and there with blood.

Did you form any opinion whether the bed had been slept in or not?—It would be difficult to form an opinion; but I think it highly probable that it had been slept in. The sheet referred to in the report appeared to have been washed, but it had, notwithstanding, a large quantity of blood in the centre.

Did you draw any inference from that?—The inference which I drew was that the sheet belonged to the bed, and that it had been taken from it. I don't know whether there was any sheet on the bed or not. The impression upon my mind is that there was no sheet on the bed.

Did you look particularly?—I am not aware of any sheet being on the bed, and I repeat that my impression is that there was not. I noticed the pillows. They were stained with blood, and were scattered about the bed along with the bedclothes. There were two of them. There were large marks of blood on them.

Any on the bolster?—I don't recollect. I know very little about the bed.

What were the marks of blood on the floor like?—They seemed to be large spots of blood.

Was there a table in the room?—Yes; there was a mahogany square one-leafed table, about 4 or 5 feet broad, in the centre of the room. All round this table there were marks of blood. The body was lying between that table and the bed.

You say there were marks as if the body had been dragged along the kitchen. Explain what they were like?—The bloody track was about the breadth of the body.

Was all the track bloody?—Part of it was blood; the rest of it was just marks of streaking.

Lord Deas—Were they streaks upon the floor, or were they only in the dust?—The floor was streaked regularly.

Examination resumed—You say that in the kitchen there was evidence of a severe conflict having taken place. What was the nature of that evidence?—There were blood stains upon the end of the jawbox at the inner side of the kitchen door.

But what led you to say there were marks of a severe conflict?—These marks were principally upon the flags.

How did that show that there had been a severe conflict? The dragging of the body was not a sign of a severe conflict. I therefore want to know what marks of a severe conflict were apparent to you before the dragging commenced?—My conclusion, that there were marks of a severe conflict was founded upon the streaks upon the kitchen floor.

I again ask, what were the marks of a severe conflict before the dragging took place?—There were regular marks as if caused by some rough substance.

Lord DEAS—That is streaking still, and the remark in your report about "evidence of a severe conflict" just confirms what I have said already as to the introduction of matter not proper to a medical report.

Mr. GIFFORD—I show you a cleaver. Would such an instrument produce the injuries you observed upon the body?—Yes.

Cross-examined by Mr. CLARK—When I examined the bed I found blood upon it; on the ticking, which was on the upper part of the bed.

Do you mean by the ticking, the mattress?—Yes. There was blood on the mattress, which was stained in certain places. There were one or two stains. The stains were the size of a half-hand to a whole hand.

Was there much blood on the sheet?—To my mind there was a considerable quantity.

Was there blood on both sides of the sheet?—I am not aware that it was.

(To Court officer)—Show the sheet (No. 2) to the witness. (The sheet when exhibited was, to a great extent, as much saturated with blood as if it had been steeped in it.)—I think that is the sheet I saw at the corner of the room. It was quite damp then, and to appearance has so far changed. I thought then that the sheet had been washed.

Does it have the appearance of having been washed?—I am speaking of the impression on my mind.

Was there any appearance of the deceased's person having been washed?—Yes. The face, neck, and upper part of the chest appeared to have been washed.

Had the kitchen floor the appearance of having been washed?—It had; between the kitchen jawbox and lobby.

Was the mark of the trail, from the kitchen to the bedroom, washed out with water?—From the kitchen to the bedroom door there was a distinct appearance of the floor having been washed.

Did the washing stop at the room door?—Yes.

Lord DEAS—That is the pavement that was washed?—Yes.

Mr. CLARK—When you saw these places in the kitchen and lobby washed, were they dry or moist?—The lobby was perfectly moist; it was very damp, as if it had been washed recently. The kitchen was drier, but still there was a damp appearance.

When you say washed recently, what do you mean; what time do you mean?—It had a damp appearance, as if it had been recent.

Jos. Fleming

Lord Deas—You are asked how recently. Was it an hour or a day before?—It might have been a day before from appearance.

Did the lobby and kitchen seem to have been done together?—They had the appearance of not having been done on the same day, but that would depend much on the stone.

Was the appearance of the two stones different?—They might be.

Is that in favour of the washing having been done at both places in one day or against it?—I cannot form an opinion.

Mr. Clark—What sort of an appearance had the kitchen fire on Monday?—It seemed to have the appearance of an ordinary kitchen fire. It was burning.

Could the washing of the kitchen have been done in more than one day?—To form an opinion as to when the washing took place would depend much on the kitchen fire.

How near was the moist place in the kitchen to the fire?—It might be about 7 or 8 feet distant. The place I looked to, in a great measure, was that near the kitchen door, which was about 10 or 12 feet from the kitchen fire.

Lord Deas—Was there only one place moist?—Yes; that was at the jawbox, near the kitchen door.

Mr. Clark—Did you notice any blood on the door?—I did. It was a mark of blood of such a description that it seemed as if a brush had been steeped in blood and drawn across the back and the post of the door.

Lord Deas—Your voice, doctor, is rather indistinct. Listen, and see if I have taken down rightly what you said. "I noticed blood at the back of the door, and it had the appearance as if a brush had been steeped in blood and drawn across the back of the door and the posts of the door." Is that what you said?—That is one way of accounting for it, but it might have been caused by a bloody dress coming across it.

Lord Deas—Do you mean any part of a woman's dress?—Yes.

Mr. Clark—Any bloody cloth would do it?—Yes.

Was it a very obvious mark?—It was a very obvious mark.

Was the door opposite to the window?—No, it was on the right hand side.

But was there plenty of light showered from the window upon it?—There was a large kitchen table between the window and the door, which somewhat darkened it.

But was there plenty of light to see the marks?—If your eye had been turned in that direction they might have been seen at once.

You say that it was an obvious mark?—Yes.

And that there was plenty of light to see it?—Yes.

And if you happened to look in that direction you would readily see it?—Yes.

Lord Deas—Did you say mark or marks?—I said marks.

Were there any other marks?—Yes, there were the marks upon the jawbox.

Mr. Clark—What colour is the wood of the jawbox?—The impression on my mind is that it was a wooden jawbox, but not painted.

Was the jawbox opposite the window?—The end of it faced the window.

Were these marks obvious?—They were quite distinct and obvious.

Did you notice any other marks of blood in the kitchen?—I don't recollect.

Did you notice any trace of blood on the floor of the kitchen?—I saw no blood on the floor of the kitchen. I don't recollect of seeing any.

Were any of the wounds of the deceased inflicted after death?—Some of them had the appearance of having been done after death, but the principal wounds were all inflicted during life.

Did you notice a remarkable bruise on the lower part of the back, towards the bottom of the spine?—I don't recollect.

Was there any such bruise?—I don't recollect.

Did you not make a post-mortem examination?—Yes, and in my report I described all the marks.

You do not in your report describe any bruise on the lower part of the back?—That might be; there were so many of them.

All I want to know is, did you notice any trace of a bruise on the lower part of the back, for it is not mentioned in your report?—I do not recollect. Had it been there it would have been mentioned in the report; that is, had it been noticed.

Are you able to say that there was a remarkable bruise at the lower part of the back?—I rather think there was not.

Can you tell me positively whether there was a remarkable bruise on the lower part of the back?—All I can state is, that I don't recollect having seen any. Had it been there, I think I would have seen it.

In your report you have stated all that you noticed, and you do not state anything of that kind?—Then it was not observed at the time, or it would have been put down.

Lord Deas—Did you make a full examination outside and in?—Yes.

Mr. Clark—Was there a remarkable bruise on the lower part of the back, or do you say there was not?—I don't recollect seeing anything of the kind. I can only say that I did not observe it, and I made a full examination.

A Juror—When you first saw the body, was it lying on its back or on the face?—On the face.

A. M'Call 9. Alexander M'Call, examined by Mr. Gifford, deponed—I am assistant superintendent of police in Glasgow. I went to Mr. Fleming's house in Sandyford Place on Monday, 7th July, about half-past nine o'clock in the evening. I saw the dead body of the woman there. I had two detectives with me, for the purposes of investigation. I noticed stains of blood in the room, on the flooring where the body was lying, and also beside the basin stand. On the door of the press there was also some blood.

Did you trace any marks out of the room?—I did. I traced a trail from the bedroom to the kitchen. The trail continued inside the door, and there it apparently ended.

Were there any bloody marks in the kitchen?—Yes, on the jawbox, and at the back of the kitchen door—that is, inside.

Did you notice a chest in the room that night?—I did; a servant's chest. I opened it.

Tell us what you observed?—I found it nearly empty, although some articles were still in it. There was also a small bandbox, with blood upon it, inside of the chest. It was unfastened. The catch of the lock was broken.

What kind of marks of blood were on the box?—They were like those of a bloody hand. This examination was made with gas and candle light. I went back next morning, and examined the room floor more particularly.

Did you observe any peculiar marks of blood on the floor?—I observed some footmarks—marks of the left foot. These were opposite the bed, nearer to the fireplace. They seemed to be footmarks of blood. I afterwards saw that part of the flooring cut out; it was cut out in my presence by Alexander Baxter.

(Shown the part of the flooring referred to, which was afterwards examined by the jury and by Lord Deas.)

How many impressions were there?—Two.

Were the marks at the time you observed them more distinct than they are now?—They are much the same, I think.

Lord Deas—One of them is fainter than the other.

Mr. Gifford—I got information regarding some plate that had been pledged, and, in consequence of that information, I apprehended Mrs. M'Lachlan, the prisoner. I had the information upon Sunday, 13th July, and went to her house that day. I found her; she had a child with her about three years of age. I told her I was making inquiries regarding the murder of Jess M'Pherson.

What did she say?

Mr. Clark rose to object to this question, when it was agreed that the witness should confine his answer to the one question, without entering into the details of the conversation.

Witness stated that Mrs. M'Lachlan did not make any reply to his question.

Mr. GIFFORD—Did she tell you when she last saw Jess? A. M'Call

Mr. CLARK (to witness)—Don't answer that question.

Mr. GIFFORD said he would not press the question. He then asked the witness—You took her into custody?—Yes.

Then on the 14th July you went to the Greenock railway station to inquire there?—I did. I saw there a clerk of the railway.

Lord DEAS (to counsel)—Wait one minute. (To witness)—You took the prisoner into custody on what charge?—On that of murder and theft.

Mr. GIFFORD—Then on next day you went to Gorbals station?—Yes. A box had been left there on Saturday, the 5th July, addressed to Mrs. Bain, Hamilton. I went to Hamilton the same evening and made inquiries there.

Did you recover anything there?—I did, on Tuesday, the 15th, a box.

(Shown a black leather box or trunk, No. 19 of inventory.) Whom did you get that from?—I got it from a young man named John Hamilton, saddler, Hamilton. On the succeeding day, Wednesday, 16th July, I went to the Greenock railway station.

Did you recover anything there?—I did.

(Shown a black tin japanned box, No. 28 of inventory.) From whom did you get that box?—From John M'Intyre, railway clerk.

When you got that box, was it full or empty?—It was full. I took it to the County Buildings, where it was opened, and inside I found a black silk watered gown, a black silk polka, a changing-coloured silk dress, a black silk velvet cloak, and a broadcloth cloak. I got nothing else.

(Shown articles labelled No. 29, 30, 31, 32, 33 of inventory.) These are the articles.

Mr. GIFFORD—You called one of them a changing-coloured dress. To me it appears brown?—It was called a changing-coloured silk dress to me, and that is it.

Did any part of the floor of Sandyford Place house appear to have been washed?—The bedroom where the dead body was appeared to have been washed. That part of the floor near the press door appeared to have been recently washed. The kitchen floor also appeared in part to have been washed.

Tell us what was the peculiarity in the appearance of washing that led you to say it had recently been done?—It was white and clean, whereas if it had been washed a considerable time before it would have been like the rest of the flooring. It was not moist.

Cross-examined by Mr. CLARK—When did you notice that part of the flooring had been washed?—About ten o'clock on the Monday night. Dr. Fleming had been there before.

A. M'Call Did you notice any blood or trace of blood on the kitchen floor?—No, I did not.

Well, the blood on the back of the kitchen door and on the jawbox, was it quite obvious?—It was quite so to me. I noticed this on the Monday night before I left.

You say there was a broken lock in a box in the room. Did it look as if recently broken?—I cannot say. I saw old Mr. Fleming that night. He made a statement to me.

What did he say?

Lord Deas—Do you want to hear any one thing he said.

Mr. Clark—I want to hear all he said.

Lord Deas—You had better ask your questions in detail.

Mr. Clark—Did he say anything about the noise he heard?—He said he had been wakened by the screams, and he thought he heard another scream. He said he thought they came from the outside.

Did he say what kind of screams they were?

Lord Deas—These are questions to be put to the man himself.

Mr. Clark—The position I wish to occupy is to lay before the jury the same evidence which would have been laid before the jury if Mr. Fleming had been the party at the bar; because one of my defences is that Mr. Fleming was the person who committed this murder. Surely I am entitled to go into that evidence for my own justification, which the Crown would be entitled to go into for the purpose of proving an accusation. If Mr. Fleming gave to this witness a different account regarding what he had seen and heard, I am entitled to bring it out.

Lord Deas—I do not object to your putting questions to the witness with the view of contradicting anything that James Fleming said in the box; but I question the correctness of a course which might lead to the contradiction of what has been said out of the box. What I have down is that James Fleming said to the witness that the screams he had heard came from the outside.

Mr. Clark (continuing the examination)—Did he say from what kind of person those screams came?—No.

Did he not say anything like "the screams of loose women"?—He said that it was not an unusual thing to hear screams from loose characters at the back of the house.

Did he account for the screams he had heard in that way?—That was the explanation he gave to me.

Did he say he had got out of bed?—No, he did not.

Did he say what he had done in bed?—Yes; he said he raised himself upon his elbow and looked at his watch, which he said he kept below his pillow.

Did he say that he jumped out of bed?—No.

Mr. Fleming was apprehended?—Yes.

When was he liberated?—I think it was the Monday follow-

ing. The prisoner's husband was also apprehended at the same time as herself; it was upon a Sunday. A. M'Call

Was it known at the time he was out of town upon Saturday and Friday?—No; I did not know. He said he had been absent; but I had not the means of testing the correctness of his assertion. There was a box, now produced, got at the Greenock station.

Lord Deas—Was it closed?—It was tied with a rope, the lid being tied down. The box I got at Hamilton was not locked when it came into my hands.

Mr. Gifford—Did you look at the feet of the murdered woman?—A piece of wood was applied to the sole of the murdered woman, but it was found that the length of her feet did not correspond with the footprints on the floor.

Lord Deas—What was the length of the feet of the deceased and that of the footprints?—I can't say what was the length of the feet, but there was half an inch between the length of the feet of the deceased and that of the footmarks.

Did you satisfy yourself that the feet of the deceased could not have made these footmarks?—I did.

Mr. Clark—How did you compare the length of the feet of the deceased with that of the footprints?—I did it with a piece of stick. I laid it upon the impression.

Was that all the material upon which you formed your judgment?—Yes.

You had not even a footrule?—No.

Lord Deas—Which foot was the longest?—The foot of the murdered woman was the longest. I measured with the stick, keeping my finger and thumb at the place.

10. Donald Campbell, detective officer, Anderston district, examined by Mr. Gifford—I am a criminal officer in Glasgow. I went to Mr. Fleming's house on Monday, the 7th July, at half-past five in the evening. I found Dr. Fleming and Dr. Watson there. I was present when they examined the body. D. Campbell

(Shown shift, semmet, and woollen polka, No. 1 of inventory.) Did you take possession of those articles?—I did. I also took possession of a sheet. It was found on the basin-stand at the door of the bedroom where deceased was lying; it was on the sole of the basin-stand.

(Shown petticoats and a towel, &c., No. 3 of inventory.) You also took possession of some articles of clothing?—They were found lying on the floor of the room. In a drawer of the kitchen dresser I found a cleaver.

What made you take possession of that?—Nothing further than that the rust upon it looked fresh, and there appeared to be something on the handle like blood. I saw bloody marks upon the room and other places.

D. Campbell Did you notice a footstep in blood on the floor of the room?—I did. I examined the feet of the dead body to see if they could have made the footprint. I measured the footprint, and compared it with a measure I took of the feet of the deceased.

Lord Deas—How did you measure them? Did you measure their length and breadth?—Yes.

Mr. Gifford—What was the result?—I found that the foot of the deceased was longer than the measure of the marks on the floor.

Lord Deas—Did you measure them with a footrule?—No; I measured them with a piece of wood, a thin spale, which I cut to exactly the length of the mark on the floor.

Mr. Clark—Where is this spale? Did you preserve it?—I did.

Where is it?—Here it is (taking the piece of spale out of his pocket, and handing it to Mr. Clark).

Mr. Clark (addressing the Court)—We cannot have that now, but it should have been produced by the Crown authorities.

Mr. Gifford—The footprint, you say, was shorter than the foot of the deceased?—The foot of the deceased was rather longer.

You are satisfied that the footprint could not have been made by the deceased?——

Mr. Clark—Really, we should have the means of substantiating that for ourselves.

Lord Deas—You were satisfied that the deceased's foot could not have made the mark?—I was satisfied of that by the length of the footmark.

Mr. Gifford—You say you were at the house at half-past five o'clock. Did you at that time—it was good daylight—notice any marks on the floor of the lobby and kitchen; upon the kitchen lobby?—Well, there was a large score along the floor of the kitchen, and in the lobby leading into the bedroom of the deceased, and also on a portion of the floor of the room on which deceased was lying.

Were there marks of washing on any part of the floor?—On the kitchen floor it appeared as if some person had washed a portion of it.

What was the exact appearance?—Well, it was quite dry at the time, and it appeared as if it might have been done a couple of days previously.

Did it seem as if it had been trodden upon since the washing?—No, it did not appear as if it had been much trodden upon.

Cross-examined by Mr. Clark—Did you notice any blood upon the kitchen floor?—Well, I did not; but the floor had a greasy appearance in parts where it had been washed up, and had a reddish tinge upon it as from a greasy substance.

D. Campbell

Did it appear as if blood had been washed from off the floor?—That was the impression on my mind at the time.

Was the washing continued from the kitchen into the lobby? Was there any washing in the lobby?—There did not appear to be any. I was left in charge of the house that night. I searched the house.

Did you find any brown clothes in the house, men's clothes? —Yes, there were some clothes found in a room upstairs.

Were they brown coloured?—I cannot say. I think they were of various colours.

Did you find brown clothes in the house?—As to colour I cannot say.

Did you find anything in the room where old Mr. Fleming kept his clothes?—Yes; I found some shirts in a chest of drawers with spots of blood on them.

Lord Deas—With spots of blood on them, you say?—Yes, on the sleeve of the shirts.

Mr. Clark—Are those the shirts? (Shown No. 49.)—They are.

Lord Deas—Do you say that these were found in a drawer pointed out by old Mr. Fleming?—Mr. Fleming gave me the key to open the drawer in which I found them.

Mr. Clark—Did you notice any marks of blood on the floor of the room?—Yes.

What were they?—Some spots of blood in the centre of the room floor.

Lord Deas—There was no bed in that room, was there?—No.

Mr. Clark—Did you find anything in Mr. Fleming's bedroom upstairs?—No; I am not aware of anything being found there.

Mr. Gifford—Were the shirts you found folded?—They were.

Did they appear to have been newly dressed?—Yes.

Did you get keys to open the other chests of drawers that were in the house?—No, they were open.

Lord Deas—Did he give you more than one key?—He gave me a bunch.

But were there more keys than one on the bunch that opened the drawers?—No; there was just one.

Mr. Clark—Did you see anything that had been used in washing up the blood?—I cannot say that I saw anything that had been so used, but there were a number of cloths which I saw; but whether they were so used or not I cannot say.

But did you not examine to see if there were any such cloths?—I did. There were two small cellars, in which there were some wet cloths which might have been used.

Were they marked with blood?—No, they were not.

A. Thomson

11. Audley Thomson, criminal officer in the Central District—I was at Mr. Fleming's house, Sandyford Place, on Monday, 7th July, and saw the body and the appearances there. I went about nine o'clock at night. I went in company with Superintendent M'Call. I was back on the 13th, when I took possession of the key now shown me, label No. 6, which was found in the door of the room where deceased was found. I applied that key to the pantry door, and found it opened it and locked it. I was with Mr. M'Call on Sunday, the 13th, when the prisoner was apprehended, and was, at different times afterwards, at her house, which is at 182 Broomielaw. (Shown a key, label No. 38.) I got that key in the prisoner's house, in the press door in the lobby.

By Lord Deas—The key was standing in the lock of the press door in the lobby.

Mr. Gifford—Did you try whether that key would open the check lock of the outer door of the prisoner's house?—I did, but it could not. Mr. Smith, who was along with me, took the lock off to try it, but it would not do.

Did you go with Bernard M'Laughlin to the house of Mary Black or Adams?—I did. (Shown crinoline wires, label No. 25.) I got these there.

Did you look at the crinoline wires?—I did, and found portions of the wires bare, and on another portion I considered there had been blood. I got possession of other two small keys in the prisoner's house. (Shown them, label No. 39.) They were too small to open the outer door. (Shown the two keys, label No. 40.) These keys were also found in the prisoner's house. None of them would open the outer door. (Shown a sleeve, or part of a sleeve of a dress, label No. 23.) I found that in the prisoner's house on the 17th. It was picked up by Mary Black or Adams, in my presence.

Did you go to Sandyford Place in search of a bottle?—(Shown a bottle, label No. 5, and identifies it.) There was no cork in it; it smelled of rum. I also tasted a small portion that was in it, and was quite satisfied that it contained rum. I found the bottle on the 15th.

By Lord Deas—I got the bottle in a press or closet, where were a number of other bottles, in the lobby in the low flat.

W. Smith

12. William Smith, criminal officer in the Central District of Glasgow Police—I went along with the last witness to the prisoner's house, and got a number of keys there. I went on the 13th, 14th, and 15th July. I tried these keys to see if any of them would open the outer door of the prisoner's house, but they could not. I even took the lock of the door off, and tried it, but they could not open it. I was present when the sleeve was found in the prisoner's house on the 14th July. The house consisted of three apartments, two rooms and a kitchen. It is situated up two stairs.

13. Christina Fraser, wife of and residing with John Fraser, seaman, Grace Street, Finnieston, Glasgow, examined by Mr. Gifford—I am acquainted with the prisoner. I have known her from the time she was a little girl. I was on the north side of the river on Friday, 4th July, about half-past nine o'clock. I went across to see Mrs. M'Lachlan. I went to her house in Broomielaw. The house consisted of two rooms and a kitchen. Mrs. Campbell occupied the kitchen and bedroom of the house, and Mrs. M'Lachlan the parlour. There was a concealed bed in the prisoner's room. Mrs. Campbell opened the door to me. I found Mrs. M'Lachlan in her room dressing to go out. She had on her cloak, and seemed to be putting on her bonnet. She said she was going to see a delicate child of Mrs. M'Gregor, a friend of hers, and that she would not be long. The prisoner's child, about three years old in June, was in the bed in the parlour. This was about half-past nine. I went out of the house along with the prisoner. We went along the Broomielaw, up Washington Street, to the corner of Stobcross Street, where I parted with her. She crossed the street towards the Gushet House. It might be ten o'clock, or five minutes past ten, when we parted. I could not say what way she was going. She had on a grey cloak and a velvet drab-coloured bonnet, and it seemed to be a dark dress which she wore. Before I left the prisoner's house that night she gave me a glass of rum and a biscuit. She went out of the house, but I cannot say whether she brought in the rum then or not. She was not many minutes away. It was a small bottle, but I could not say what kind it was. (Shown dress, label No. 27.) I can't say that I saw the prisoner wearing that gown, but I have seen her wear one like it. **C. Fraser**

Cross-examined by Mr. Clark—I have known the prisoner since she was a child. She is of a mild disposition. She has been in weak health since the birth of her child. She was long confined after it was born. She has had only one child so far as I know. She is not a violent woman in any respect, and was always civil to others. She and her husband always lived comfortably together.

14. Margaret M'Kenzie or Campbell, wife of Donald Campbell, seaman, Clydesdale Buildings, Broomielaw Street, Glasgow, examined by Mr. Gifford—I lived in the Broomielaw with the prisoner. I came to her house in May last. I took two of the apartments of the three of which the prisoner's house consisted. My two apartments were the kitchen and bedroom. I still live in the house. There is an outer door and a long lobby. The first apartment you come to on passing through the outside door is the kitchen. The next is the bedroom, **M. Campbell**

M. Campbell and the third is the apartment which the prisoner occupied, and which is at the end of the lobby. These three apartments are all on the same side of the lobby. The prisoner's husband is a sea-faring man, and was often from home. Their child is three years of age. I remember the 4th July last. The prisoner sent my girl to the post office on the evening of that day for envelopes. This was ten o'clock. The prisoner got the envelopes, after which the prisoner dressed herself in a drab bonnet, a grey cloak, and a brown merino gown. Mrs. Fraser, the last witness, came in before the prisoner went out. I admitted Mrs. Fraser, and showed her into the prisoner's room. I then went to mine in the kitchen and got to bed. I sleep in the kitchen. The prisoner came into the kitchen and opened the press, and appeared as if she had taken away something. I can't say what she took out; but I know there were a bread basket and a bottle in it. I looked carelessly into the press next morning, but did not miss the bottle. I, however, do not remember seeing it there at that time. I missed it on the Monday following. It was a common bottle. (Shown glass bottle, No. 5.) That is about the size, shape, and colour of my bottle, but I can't say that it is mine. I heard, after this, footsteps go out, and the outer door shutting. This was about ten o'clock. I never saw a check key for the door since I came to the house. There is no handle at the outside of the door which admits of its being opened from the outside. The prisoner often talked of getting a check key for the door. There was a check lock which could have been opened from the outside had there been a key. I did not fall asleep till my lodger came in, which was about eleven o'clock. His name is John Macdonald. He's away to Karashae (Kurrachee, East Indies). When he came in he went right to his bedroom. I could not say when I fell asleep. It might be a while, but I could not say how long. I was under the impression that the prisoner went out, owing to her having spoken of going out, and as I saw her dressed to go out before Mrs. Fraser came in, I had an expectation that I would have to rise to let her in; but I was not quite sure. I did not wake till next morning, at half-past five o'clock. I was awakened by the crying of the prisoner's child. I went into the prisoner's room, and took the child out of bed and dressed him. The prisoner was not in the room. The child was alone. I dressed the child.

Did you see the clock when you said it was about five o'clock?—Yes, I see the clock in the south side quite visibly from my house windows.

Lord Deas—A public clock?—Yes, a public clock in the south side.

Mr. GIFFORD—Did you look at the door at the time?—Yes; I went to the door to see that it was fast. It was just as I had left it, on the "check." M. Campbell

Lord DEAS—Did you go to bed again?—No, sir, I remained up.

Mr. GIFFORD—What did you do with the little child?—I gave him a "piece" and he fell asleep, and I put him into his mother's bed again.

Did anybody come to the door after that?—No, sir; the milk girl was the first that came to the door after that, and I took in the milk. That would be between eight and nine o'clock. Mrs. M'Lachlan came after that—about nine o'clock on the Saturday morning. She rang the bell, and I, opening the door, let her in. I had not seen her since the night before, when she was dressed to go out, and came into my kitchen. When she came in she had her own bonnet and cloak on, but I do not know, not having looked, whether the dress was the same. She was carrying a bundle—a large bundle—under her cloak. When she came in, and, just as I opened the door, she said, "Is that you?" or "There you go?" or something like that, and passed straight into her own room. I did not ask where she had been. I next saw her going down the stair carrying a clothes basket a short time after, and she returned very soon again. I observed her dress. I noticed that she had on a dress which I had never before seen on her—a merino dress of reddish colour, and the back of it pleated, and I think it was trimmed with blue velvet. The prisoner has a cellar downstairs in which she keeps things. When she returned from going downstairs she went into her own room, and I next heard her come into the lobby and call out to me, asking me to kindle a fire in her room; she then went out. This would be about ten o'clock, and she returned once more between twelve and one. I saw her shortly after that on going into her room for a little basket which she had borrowed from me on Friday night.

Did you notice what dress she had on then?—Yes; she had on a blue poplin dress. (Shown dress, label in inventory No. 27.) That is Mrs. M'Lachlan's own dress, and I have seen her wearing it before.

When did you see her next?—I saw her again about two o'clock, going out with her little boy, and she soon returned once more, and went out again with a black box.

Lord DEAS—At what time would this be?—I cannot exactly tell, but I think it might be about three or four o'clock. The box was similar to that I now see (being shown leather trunk, labelled No. 19), and I think I have seen that box in the house before.

Mr. GIFFORD—Do you know the girl Sarah Adams?—Yes, sir.

M. Campbell Did she come in about that time?—I did not see her at all. Mrs. M'Lachlan came back again soon after taking out the black box, and she went out again with her little boy that night. She had on a grey cloak. (Shown grey cloak, No. 33 of inventory.) It was a grey cloak that, but it had tassels, and that has none. They must have been taken off, if that is it. She came in again that night, and when she returned she showed me a little bonnet which she had bought for her son.

Did she show you anything that she had bought for herself?—Not that night, but on the following Monday she showed me a black cloak, which she said she had got very cheap, at 3s. 6d. or 4s. 6d.

Do you know Mary Black or Adams?—I have seen her at Mrs. M'Lachlan's, and I think she was there on Saturday afternoon, calling on Mrs. M'Lachlan; but I cannot say at what time. Mrs. Adams washed for the prisoner. (Shown article in inventory, labelled No. 32, a merino gown.) That might be the same gown she had on on the Saturday morning, but I cannot say. The colour is changed, and it looks like as if it had been dyed. The trimmings on it do not appear to be like the way it was trimmed before.

Did you know the deceased Jessie M'Pherson?—I have seen her more than once in Mrs. M'Lachlan's.

Have you ever seen these dresses before? (Shown black and brown silk dress, No. 30)—I think I have seen the black silk before. It is very like a dress I saw one Sabbath day in Mrs. M'Lachlan's on Jessie M'Pherson, the deceased. I observed it had black silk flounces covering a black skirt.

The flounces were the same as those now shown you?—Yes.

(Shown thirteen pieces of flannel, No. 20.) Do you know these?—They are very like a petticoat that Mrs. M'Lachlan had.

Lord Deas—That is to say, they are like pieces of a petticoat?—Yes.

Mr. Gifford—Is there any mark that you can know them by?—No farther than at one time Mrs. M'Lachlan washed it, and I noticed it was very stiff, and I remarked it to Mrs. M'Lachlan, and she said that it was made out of a piece of blanket.

Was the texture the same as these pieces?—Yes, it is very like it.

(Shown twenty pieces of coburg, label No. 22.) Do you recognise these?—They are very like the dress that Mrs. M'Lachlan wore on the Friday.

They are pieces now, but they are like the pieces of the dress?—Yes; they look like the colour of the dress. That was a dress I knew very well.

Are there any remains of flounces there?—Yes; these are small pieces of flounces.

Was Mrs. M'Lachlan's dress a flounced one?—Yes; it had three flounces.

(Shown sleeve, label No. 23.) Is that like the sleeve of her dress?—That is like the sleeve of the dress which has just been shown me. The dress she wore on Friday.

(Shown six pieces of wincey, No. 21.) Do you know these?—That is not like the colour of the dress I examined before. It may be the gaslight.

Lord Deas—Look at the label attached to them. Is your signature on it?—Yes.

Did you examine that in the Fiscal's office before?—Yes. I then thought it was something like the wincey petticoat that she (Mrs. M'Lachlan) used to wear.

Cross-examined by Mr. Clark—Do you know that flannel petticoat? (Shown label No. 24)—I have never seen that before, except in the County Buildings.

You say that Mrs. M'Lachlan had on a blue poplin dress on Saturday. What time of the day was that?—Well, I cannot say. I noticed it in Mrs. M'Lachlan's when I went in for the little basket between one and two o'clock. When the prisoner was living with me she was always in delicate health, but I cannot exactly say what was the matter with her. She used to complain of heart disease, and her shortness of breath was very great at times.

Was she in her house on Saturday night, Sunday, and Monday?—Yes; but she could not be in all day on Monday, as she was going out and in. I was in the house all the time.

Mr. Gifford—Were you at home all that Friday?—Yes, I was, except for a few minutes that I might be out.

Did you see any man call upon her?—I cannot say that I saw any strange man calling that day.

Did you see anybody calling for her on Saturday?—No; I cannot say that I saw anybody call on Saturday.

No old man?—I have never seen any old man calling for her.

[It being now nearly nine o'clock in the evening, in respect of the length of time already occupied and the impossibility of bringing this trial to a conclusion in the course of the present sederunt, Lord Deas, with the consent of both parties, continued the diet against the pannel till to-morrow morning at a quarter before ten, and ordained all concerned then to attend under the pains of law, and the haill fifteen jurors now in the box being hereby ordained to repair under the charge of the macers of Court, and of John Murray, Sheriff-officer, Glasgow, as their assistant (who, being present, was duly sworn *de fideli*), to Carrick's Hotel, George Square,

M. Campbell Glasgow, to remain under their charge till brought here to-morrow morning, in the hour of cause above mentioned, being kept strictly secluded during the period of adjournment from all communication with any person whatever on the subject of the trial, the Clerk of Court having liberty to communicate with them in relation to their private affairs; meantime ordained the pannel to be detained in the Prison of Glasgow.]

The Court then rose.

SECOND DAY.

At Glasgow, the Eighteenth day of September, 1862. Present the Honourable Lord Deas, one of the Lords Commissioners of Justiciary. Present also the Sheriffs as in the preceding sederunt.

Intran. Jessie M'Intosh or M'Lachlan, now or lately prisoner in the Prison of Glasgow, Pannel.

Indicted and Accused as in yesterday's sederunt.

The Jury having come into Court, they all answered to their names on their being called over, and the Advocate-depute adduced the following additional evidence:—

Mary Adams

15. Mary Black or Adams, examined by Mr. Gifford—I know the prisoner; I have known her for two or three years; I was in the habit of washing clothes for her all that time; I used to wash in her own house at the Broomielaw; she employed me sometimes to go to the pawnbroker's; I was sent to different pawns; to Clark's in Brown Street and Hutchinson's in Argyle Street; I was sent there to pledge goods.

What sort of goods?—Her own clothing. I gave the name of Fraser, 5 Main Street. That was not her own name nor her own residence. She told me to give that name. I was in the prisoner's house on Thursday, 3rd July. I was washing for Mrs. Campbell, a person who lived in the same house with the prisoner. I was there the next day also finishing up the washing for Mrs. Campbell. I saw the prisoner. She sent me to the pawnbroker's, Clark's, in Brown Street, with a dressing glass. This was on the forenoon of Friday. She told me to get 6s. upon the glass, and to lift a cloak out of the pawn. I got 6s. upon the looking glass, and took out the cloak for 4s. 7½d. I brought the cloak to the prisoner. (Shown a cloak, label No. 33.) That is the cloak. When she got the cloak she said she wanted it to go from home. It was eleven o'clock in the forenoon when I brought the cloak. I saw the prisoner again in the afternoon about five o'clock. She then said she wanted me, if I were not engaged, to come back and keep her little boy, between nine and ten o'clock in the evening. That was Friday, 4th July. She said she was going to see Jessie. She did not say what Jessie, but I understood her to mean, when she spoke of Jessie, Jessie M'Pherson. We never used to mention the hindmost name. We both always called her Jessie. I knew Jessie M'Pherson for about the same time as the prisoner. I asked prisoner why she went to Jessie's so

Mary Adams late. She said it was the time she was got alone; that the old man went to bed at that time. She did not give the "old man" a name; but I knew she meant old Mr. Fleming, in Sandyford Place. Jessie was a servant there. I knew that perfectly. I have only been once in Sandyford Place. That was after the murder. She said nothing about the old man after that. I said if nothing came in the road I would be back.

There was nothing else passed at that time?—She wanted me to call on the smith to get a check key sorted. She said it was for the front door, as she said she did not always like to trouble Mrs. Campbell to open the door. She told me to go to a smith's at the foot of Carrick Street. I never heard his name.

Did you go to the smith?—No, sir; I forgot.

Lord Deas—Didn't you get a key to go with?—No. I was to tell the smith to come and sort the key.

Mr. Gifford—Try if you recollect anything else that passed that night?—I think that was all that passed.

Did she not say something about old Fleming?—She said that he was fashious about any person coming to the house.

Did she explain how it was he was fashious?—She said he was especially so when he saw an old servant about the house. I left the prisoner's house at about half-past five. I did not go back that night, as I did not feel well, and went to bed after I got home. Next morning, Saturday, I went out about six o'clock to go to Mrs. Vicar's, at the foot of Bishop Street, and was out till about four o'clock in the afternoon. My landlady's name is Mrs. Rainny, 128 Holm Street. When I came in, and in consequence of what she told me, I went to Mrs. M'Lachlan's. It would then be near four o'clock. I found Mrs. M'Lachlan in her own room. Her child was with her. She had on a dark dress. (Shown a black and blue watered gown, No. 27.) That is the dress she had on. I knew it to be her dress. I have often seen it.

Well, did you know anything about that dress which made you make an observation about it?—I knew that it was out of the house. I knew it was in the pawn. I then said to the prisoner I had been informed she was at my lodgings for me.

What more did you say?—I said to her, "Had you to go your own message?"

What did you mean by that?—I said that because she never went to the pawn herself before.

Lord Deas—She never before went to the pawnshop herself, that you knew of?—Never, except once. I remember of her saying that she went once.

Mr. Gifford—Did she give you any answer?—I don't remember of her saying anything.

Mary Adams

Well, what was said next?—I said that she was up for me, and she said that I could not be got when she was wanting me. She then said, "I want you to go a mesage to Clark's pawn." She gave me three tickets and £2 in money.

Did she say what you were to get?—She never mentioned anything that I remember of.

Did you remember the articles?—Yes.

Had you pawned them?—I don't remember doing so, but I knew them. I redeemed a silver watch of her husband's, a dress coat of his, two shirts, and a ring.

Lord Deas—Whom did they belong to?—The two shirts were her husband's, and the ring was her own.

Mr. Gifford—Do you mind what you had to pay for all these?—As far as I recollect, it was £1 16s. 6d.

Were you surprised at her having the money?—I was a little surprised she had the money, and I passed a joke at the time and asked her whom she had robbed, just for fun. She said it was money that her husband left for the tailor.

Well, did anything else pass that night between you and her?—I went for no more messages, unless for the house. This was on Saturday night. She asked me to come back on Monday. She said she wanted some more parcels home from the pawn. I went on Monday, about twelve o'clock, and washed for her in the afternoon.

Did she give you any message to the pawnbroker?—I don't remember whether it was before I washed, or after that, that she gave me a message to Mr. Clark's, the pawnbroker. She gave me 16s. 6d. and two tickets. I went to Clark's and redeemed a pair of trousers and vest, and a jacket. They belonged to the prisoner's husband, and were in two parcels. I paid 15s. 9d., and gave the prisoner the change. I gave the pawn tickets to Mr. Millar, the pawnbroker's manager. (Shown the parts of a petticoat crinoline, attached to label No. 25.) I got these from the prisoner on Saturday, the 5th July, between four and five o'clock in the afternoon, in her own house. She said the little boy had pushed them from a chair into the fire.

Lord Deas—What did she say you were to do with them?—She said I was to make them down for a crinoline to my little girl Sarah.

Mr. Gifford—Were there wires in the petticoat?—No, she said her little boy had burned them.

Was it the petticoat that was burned?—No, it was these (the wires).

Did she say it was the cloth of the petticoat that was burned?—No; that was all she said.

These wires you gave to the police?—Yes.

You had occasion, from having washed for the prisoner, to

Mary Adams know the prisoner's clothes?—Yes. She had a brown merino gown. It had a flounced skirt.

Had she a merino gown with a plain skirt?—Not that ever I saw. (Shown a merino gown attached to label No. 32.) I never saw her with such a dress. I never saw it, that I know, till it was shown me at the County Buildings. It has the appearance of being dyed.

Mr. Clark—It appears to be dyed?—Yes.

Mr. Gifford—(Shown a flannel petticoat, and shift, attached to label No. 36.) Did you ever see these?—I never saw them till they were shown me in the County Buildings. I never washed them for the prisoner.

Look at the petticoat. Does it appear to have been newly hemmed?—Yes. (Shown a velvet cloak and a cloth cloak, attached to label No. 29.) I can say nothing about them. I never saw them in the possession of the prisoner.

Did you ever see Jessie M'Pherson with these on?—I can't say I ever saw her with them on. (Shown a black silk dress, a brown silk dress, and a silk jacket or polka, No. 30.) I never saw the prisoner with these on, nor anybody else to my knowledge.

Did you ever see Jessie M'Pherson with dresses like these?—No; but I have been informed——

Mr. Clark—Stop, stop.

Mr. Gifford—Look at the brown or changing silk dress. Did you ever see Jessie M'Pherson with one like that?—Yes, I have seen her once or twice with a dress like that. (Shown a plaid, labelled No. 31.) I never saw the prisoner with that.

Did you ever see Jessie M'Pherson with it?—No. (Shown several pieces of woollen or flannel cloth, labelled No. 20.) I recognise these—they are parts of a petticoat of the prisoner's.

Have you ever washed them for her?—Sometimes, I think.

Lord Deas here cautioned the witness against saying anything but what she knew from her knowledge to be truth.

Mr. Gifford—Is there any peculiarity about this petticoat?—Yes, it was made of a half-blanket. I know nothing about the making of that petticoat. I never spoke to her about it.

You said it was made out of a half-blanket; how do you know that?—I did not make it; but I knew the time when it was made.

(Shown six pieces of wincey, labelled No. 21.) Do you recognise these?—I cannot say so much for that.

Did you ever wash it for her?—I never washed it to my knowledge; but I have seen her wearing such like.

Did you see her wearing it, do you say?—Wearing it, sir. Yes, wearing it as a petticoat.

(Shown twenty pieces of coburg or other cloth No. 22.) Do

you recognise these? What are they?—I recognise these as part of a dress of the prisoner's. They are all torn to pieces. Mary Adams

Do you see these, part of the flounces?—Yes, part of the flounces and part of the trimmings. I saw the prisoner with that on on Friday, the 4th July. (Shown a sleeve, or part of a sleeve, of a dress, labelled No. 23.) That is part of the sleeve of the same gown. It is coburg. I found that in the prisoner's house on the Thursday after she was apprehended. The police officers were there at the time. Audley Thomson, the detective officer, was there, and the police got it.

Do you remember the prisoner saying anything about money?—Yes.

Lord Deas—Get the time first when anything about money was said.

Mr. Gifford—Was it about the 4th July she spoke of getting money?—I cannot mind the date. She said she would have to get money.

Use her very words?—She said she would have to get money somewhere. I don't know what for. She was needing it, I suppose. She did not give any reason.

Lord Deas—Was this before that Friday?—Yes, I think it was.

Cross-examined by Mr. Clark—Look at the merino gown. (Shown No. 32 of inventory.) You said that appears to you to be dyed?—Yes.

Why do you think that?—Because I see it's dyed.

You mean that it is coloured?—Yes, from the colour it was.

How do you know that?—I see that it is dyed.

How do you know that it was not coloured before?—Just because I see it's dyed. It's not its first colour.

Lord Deas—You say you think it is not the original colour?—It has been dyed, whether it is the original colour or not. It's new.

Mr. Clark—How do you know that is dyed new?—Any person can see that it is dyed.

Can you give me any reason how you know that it has been dyed?—I see it.

New dyed?—I do not know whether it has been dyed new or not, but I think the dye is new.

How can you tell that it has been newly dyed?—Anybody could by the smell.

(Shown flannel petticoat in shreds, labelled No. 20 of inventory.) How do you know that to have been a petticoat?—I know it, just.

(Question repeated)—I know that it is parts of the petticoat which I told you before had been made out of a blanket.

How do you know that these are pieces of a petticoat?—I think any person would see that.

Mary Adams

When, do you know, was this petticoat made?—I do not know the time. It's some time back since, but how long ago I cannot say.

Lord Deas—But perhaps you can tell about how long?—I cannot. I have no idea of the time, but I think it was before the prisoner was living in her present house.

How long ago—months, days, or years?—I cannot say; it has escaped my memory.

Mr. Clark—You see these pieces of wincey petticoat. (Shown articles No. 21 of inventory.) Such petticoats are very common, are they not?—Yes, and of that colour.

Lord Deas—When did you see that flannel petticoat you spoke of that was made out of the blanket? When did you see it before you saw it in the County Buildings?—Well, I could not say, for it was herself that scoured it last, and I could not say how long it is since that.

Mr. Clark—Had you washed or scoured it when the prisoner was in her present house?—It is most likely I did so during that time; but I could not say how long before it. I was in the habit of washing the prisoner's things as well as her husband's things. (Shown a flannel petticoat, label No. 24.) I know nothing about it.

Lord Deas—Have you shown the witness the petticoat?

Mr. Clark—I have shown it to her, but she said she knew nothing about it.

Lord Deas—I neither heard question nor answer. You keep it all down there among yourselves.

Mr. Clark—Have you ever seen that petticoat before?—I have only seen it in the County Buildings.

Lord Deas—You said you recollect the prisoner speaking of getting money somewhere?—Yes.

Do you mind the words she used?—I think these were the words she used, "I will have to get money somewhere or another." I thought her husband had a few pounds by him that she was going to lift.

What did you understand by what she said?—I thought that perhaps she had some little money by her, and that she was to lift it.

What did you understand by that?—I understood that she wanted to get her clothes home from the pawn, and would require money to get them.

[The witness was re-enclosed at the request of Mr. Clark.]

Sarah Adams

16. Sarah Adams, aged twelve years, and daughter of the last witness, examined by Mr. Gifford—I know the prisoner; I have known her for two years and ten months. I went to be a servant with her when she lived in Elliot Street, Anderston; I was with her also in Stobcross Street. I was servant with

her when she left Elliot Street and went to Stobcross Street. **Sarah Adams** I also went with her to her present house in Broomielaw Street, and remained with her there until five weeks before she was apprehended. Her husband is a sailor, and is often away from home. I knew Jessie M'Pherson. I used to see her in prisoner's house in Elliot Street. I do not recollect seeing her in Stobcross Street. I saw her in Broomielaw Street. She came often to that house. She came generally on a Sabbath. I have been where Jessie M'Pherson lived with Mr. Fleming in Sandyford Place. I have been sent there to Jessie M'Pherson on messages by the prisoner. After leaving the prisoner's service, five weeks before she was taken up, I went as a servant afterwards to Mr. Kinloch, Eglinton Street. Miss Agnes Kinloch was my mistress, and she gave me leave generally on a Saturday. I then went to see my mother and Mrs. M'Lachlan, the prisoner. I remember being at the prisoner's house on a Saturday. It was on the day after she was apprehended.

Try and recollect? Was it the Saturday before word came out in the newspapers of the death of Jessie M'Pherson?—Yes; and I was there on the Saturday after that too.

Lord Deas—Then you were there on both Saturdays?—Yes.

Mr. Gifford—I was very often at the prisoner's house on Saturdays. On the Saturday before the prisoner was apprehended I was at the prisoner's house, but cannot exactly say at what time. I think it would be about half-past three or four o'clock. I found the prisoner in, but there was nobody with her except her child. She was writing at the time. She asked me if I would go a message for her, and I said I would. She then asked me if I would carry a trunk to the Hamilton station. I said yes. She then went down to the cellar in connection with her house. It was at the bottom of the stairs. She took a little hammer with her and the address which she had written, and told me to follow after her with the baby. She did not say what she was going to do with the hammer or the address. When I went downstairs with the baby I found her in the cellar. She was putting on the address, and told me to pass by the cellar, which I did. After she had put the address on she told me to come and see if it (the trunk) was too heavy for me to carry. (Shown a trunk attached to label No. 19.) That is the same trunk. I was able to lift it from the cellar, from which I carried it. She told me to go across the Broomielaw Bridge, and then to go to the station of the Hamilton railway. She gave me particular directions. The box was tied up with twine. It was small twine. She gave me 1s. to pay the carriage. The box was weighed at the station. I paid 4d. for carriage. I could not read the address, because I cannot read writing. I said at the station that it was from Mrs. M'Lachlan, Broomielaw. I did not see the box opened, nor

Sarah Adams what was in it. She told me not to open it. I did not open it, and I went back to the prisoner, and she gave me something for my trouble. It was 3d. She did not say anything to me that I mind of. I remember now, she said I was to tell no person I had been at the station.

Did she say anything about your mother?—I was not to tell my mother anything about it, because she thought she would be angry.

Have you seen that black box before?—Yes, often. It belongs to the prisoner. I left her and went to my mother. I next saw the prisoner on the Saturday after.

Did you not see her on the Tuesday?—Yes, sir, that is the Tuesday after the murder was heard about. I don't know what time it was.

Well, did you see anything she had?—Yes; a bonnet and a black shawl on the table. (Shown a straw bonnet, trimmed with blue or other ribbon, labelled No. 26.) That is the bonnet I saw. I had never seen it nor the shawl before. I next saw her on the Saturday—that is the day before she was taken up.

Do you mind of being sent a message by Mrs. M'Lachlan to Jessie M'Pherson shortly before you left her service?—Yes.

How long before?—About three or four months.

Would it be so long as that?—Yes.

What was it for?—It was with a pair of crinolines.

Do you mind on being sent to Jessie M'Pherson at another time?—Yes.

What was that for?—It was for the loan of £2.

When was that?—It was three days after the other message. I got the money, and brought it to Mrs. M'Lachlan. (Shown thirteen pieces of woollen or flannel cloth, labelled No. 20.) I recognise that.

What was it?—She had once cane in it.

What do you mean by having cane in it?—It was in it for a crinoline. That was to make it wide. It was a petticoat when the cane was in it. It belonged to the prisoner. I have seen her wearing such like dress. I know it by the stitching.

Lord Deas—Did you say that you knew the stitching?—It is my own stitching.

Mr. Gifford—When did you stitch it?—One day when she was in a hurry. She gave it to me.

Lord Deas—Do you mean that she asked you to stitch it?—Yes.

Mr. Gifford—When was this? How long before you left the prisoner's service?—It was a good while.

Did you give it back to the prisoner?—Yes. (Shown six pieces of wincey or other cloth, labelled No. 21.) I have seen her wearing one like this.

Lord DEAS—What was it?—A petticoat.

Mr. GIFFORD—(Shown twenty pieces of coburg cloth, labelled No. 22.) I recognise that. It is the prisoner's.

Were there bits of the dress flounced?—Yes, there are bits of the flounces left. The prisoner's dress was flounced.

What was that when you knew it?—It was a gown or wrapper. I have seen Mrs. M'Lachlan wear a wrapper like that in the house in the Broomielaw, and before that. She had it when I left her service.

Did you ever see her wearing a gown like that, after you left her service?—Not that I know of.

Do you know the pieces well?—Yes, I know that part of the wrapper.

(Shown a sleeve attached to label No. 23.) Do you know that?—Yes, it is the sleeve of the same dress.

(Shown a flannel petticoat attached to label No. 24.) Look at that, Sarah, did you ever see that before?—I have seen her sister wearing one something like it.

What is her sister's name?—Ann M'Intosh. (Shown wires of a crinoline attached to label No. 25.) I never saw these.

Did you ever get them from the prisoner?—No.

Did you ever get them from anybody?—No.

(Shown merino gown attached to label No. 32.) Do you know that?—No; I never saw Mrs. M'Lachlan have that.

Do you see the trimming on the dress? The prisoner never had trimming like that?—No.

Cross-examined by Mr. CLARK—Were you ever examined as a witness?—No, sir.

Lord DEAS—What do you mean? In a Police Court?

Mr. CLARK—Were you ever examined in any Court before? Once before the Sheriff?—Yes.

And it was a case between Jessie Mackay and Edward M'Geachie, before Sheriff Strathern?—Yes; it is more than two years ago. I was examined as a witness for the pursuer, Jessie Mackay.

And do you mind that your mother had, after you were examined, a quarrel with Jessie Mackay?—Yes.

And then were you examined for the defender?——

Lord DEAS—Do you mean after the quarrel?

Mr. CLARK—Yes.

Did you then say all that you had said in your first examination was quite untrue?—I told them that Jess Mackay had told me to tell lies.

Was any part of what you said at your second examination different from what you said before?—I don't think it; I cannot mind.

You can read print?—Yes.

Lord DEAS—What is it you are going to ask her?

Sarah Adams Mr. Clark—I am merely going to let her look at this printed deposition (exhibiting it in his hand).

Mr. Gifford—It is not produced.

Mr. Clark—I am not asking her anything about it. I wish merely to ask her to read this, to refresh her memory.

[This course being objected to, Mr. Clark proceeded to interrogate the witness.] Then, Sarah, did you tell the same story on your second examination that you told upon the first?—I think I did.

Why did you say that you had been told to tell lies?—Jess Mackay told me to tell lies.

That was before you were examined the first time that Jessie Mackay told you to tell lies?—Yes.

And when you were examined did you tell lies?—Yes; I said when I was examined I told lies. She said she would give me a dress and bonnet.

When you were examined the second time did you tell the truth or tell lies?—The truth.

Then did you tell a different story when you were examined the second time, from the story you told when you were examined the first time?—My mother thrashed me, and put me back to tell the truth.

Was it after the quarrel between your mother and Jess Mackay that your mother thrashed you?—Yes.

Then, Sarah, you told a different story the second time from the first?—I told the truth.

Lord Deas thought it was unnecessary to press this question further, the thing being quite plain. (Witness shown part of a coburg dress, torn into twenty pieces, label No. 22.) I know that the prisoner had a dress of this colour, of that kind of stuff, and trimmed like this. The body was trimmed with narrow velvet.

And all that you can say about this is that this is the same colour, the same kind of cloth, and the same kind of trimming; you cannot say any more than that?—No.

At the request of Lord Deas the witness was again shown the pieces of wrapper or gown, labelled No. 22, and asked by his lordship if she had any doubt that these were part of the prisoner's dress. The answer was indistinctly heard by the reporters, but on Mr. Clark afterwards wishing to put a question to the witness relative to the same matter, Lord Deas said he had taken the answer given by the witness as follows:—"They are part of the prisoner's dress."

Mr. Clark said he understood the girl to have said, "I think they are part of the prisoner's dress."

On the jury being appealed to, they stated that Lord Deas' notes were, in their opinion, correct.

Lord Deas said that, if Mr. Clark wished, he would again

put the question to the witness (who had been removed out of Court), but this was not pressed by Mr. Clark. Sarah Adams

Before the witness had been removed she was also asked by Lord Deas if she knew what the quarrel between her mother and Jessie Mackay was about?—She said, "No," in reply.

Lord Deas—Do you know whether it was about anything said at that examination?—I think it was.

17. Jane Lambert or M'Gregor, milliner and dressmaker, Stobcross Street, Glasgow, examined by Mr. Gifford—I know the prisoner. I have made dresses for her sometimes. (Shown twenty pieces of coburg, labelled No. 22.) I examined these carefully in the County Buildings. I recognise these as those which were shown to me in the County Buildings. I can't say whether I know much about them or not. I made a dress the same as that for Mrs. M'Lachlan about three years ago. J. M'Gregor

Look at the trimmings?—Well, I had some such trimming as that in the shop, but whether that is the same trimming or not I cannot say. It seems to be the same kind of cloth and colour of cloth.

Look at that sleeve, is it part of the same dress?—I think so.

Has it the same trimming?—No, sir; the rest of the dress has a different trimming.

Look at article No. 32. (Shown a merino gown or parts thereof.) Did you make that?—No, sir; I never saw it before.

Cross-examined by Mr. Clark—(Being shown twenty pieces of coburg, labelled No. 22.) You say you are a dressmaker. That is a common kind of cloth?—Yes, sir, it is. It has an ordinary fringe. It is the trimming that was worn about the time the dress was made. The coburg is common yet, but the trimming is not common now, it is out of fashion.

Now, you said that the sleeve that was shown you was the sleeve of the dress?—Yes, sir.

How did you know it? (Shown No. 23, sleeve of dress.)—It is the same cloth, and the same shape.

When you say that is the sleeve of the dress, do you mean anything more than that it is the same cloth and same colour?—That is all I mean.

Lord Deas—Have you any other reason?—No, unless it be that the lining seems to be the same.

Mr. Clark—There is nothing else to identify the sleeve by?—The lining is a very common lining. To judge from appearance, the sleeve belongs to the dress. It is a very common kind of cloth, and a very common kind of lining.

Why should that sleeve not be the sleeve of some dress of the same kind of cloth or lining?—I really don't know, but it seems by the appearance to belong to that dress.

J. M'Gregor

Might it not be the sleeve of another dress of that colour of coburg, and lined with that kind of lining?—Well, it might; but then it would scarcely correspond with the dress as to the exact shade.

T. Millar

18. Thomas Millar, assistant pawnbroker, Douglas Street, examined by Mr. Mure—I am an assistant pawnbroker in Clark's pawnshop. I have seen a person of the name of Mary Adams. Our shop is in Brown Street, Anderston. I know her as a person who comes to our shop. I know also a little girl named Sarah Adams, as coming to our shop to pawn goods. I did not know at first that Sarah was the daughter of Mary. When they pawned goods they gave the name of Mary Fraser, and said they lived in Main Street, Glasgow. I remember Mrs. Adams coming on the 4th July. She then got money for the articles. She got 6s. She had nothing to redeem. She pledged a dressing glass that day. I could not say if Mary Adams came on the 5th July; her watch was redeemed that day; it was a silver watch. (Shown several pawn tickets, and pawn ticket No. 42 as that for the silver watch.) It was pawned in the name of Fraser, Main Street; it was pawned on 20th June, and I gave back the watch on 5th July.

On the same date a ring and two shirts were redeemed?—They were pawned on 6th February. I have here also the ticket for a grey cloak. The latter was redeemed on the 4th of July last. It was pawned on the 28th of June. On the 5th July a man's coat was redeemed, and pawned on the 24th June in the name of Fraser also. On Monday, 7th July, I gave up a jacket and a pair of trousers and vest on two separate tickets. The trousers and vest were pawned on 19th May, and jacket on 14th June, in name of Mary Fraser, Main Street.

Thomas Robb

19. Thomas Robb, assistant superintendent of police, southern district, examined by Advocate-Depute—I was present when the prisoner was apprehended in her own house in the Broomielaw. I found there the forty-one pawn tickets I now see attached to label No. 34. They are almost all in the name of Mary Fraser, Main Street.

Lord Deas—Look at them, and tell us what are the names on them?—They are all in the name of Fraser, Main Street, but the Christian names vary.

Mr. Gifford—The prisoner's house is at 182 Broomielaw. I know the Gushet House at Stobcross Street. It would take ten minutes or inside that time to walk from the prisoner's house to that place at an ordinary walk.

In what direction does it lie?—It is north-west.

Do you know Mr. Fleming's house in Sandyford Place?— Yes. The distance from the Gushet House to Sandyford is about the same as from the Broomielaw to the Gushet House. Sandyford Place lies in a north-west direction from the Gushet House. **Thomas Robb**

20. David Barclay—I am a clerk at the Caledonian railway station. There was a box brought to the station on the 5th of July last. (Shown No. 19, and identified it as a box brought to the station.) It was brought by a girl. I entered it in the books. I don't know the girl. I have seen her here to-day, but did not recognise her. **D. Barclay**

Lord Deas—Did you not know her?—I saw her when she brought the box, but I could not recognise her.

Examination resumed—Look at your book and tell the entry at No. 51. What is it?—(Witness read)—"A box, Bain, 21 lbs., 4d. paid. Sender, M'Lachlan, 182 Broomielaw." I weighed the box, and found it 21 lbs. I afterwards weighed it empty, and found that empty it weighed 12 lbs. It was forwarded to Hamilton per railway on 5th July last. I remember the 8th. I was working the telegraph. I observed a woman coming to me. It was the prisoner. She asked if a box had been sent to Hamilton. I said yes.

Did you notice anything particular before she came in?—Yes; I observed her pass the door three or four times.

Mr. Clark—Was it you who weighed the box?—Yes.

Lord Deas—You weighed it, I suppose, to know what to charge for it?—Yes.

And the charge was 4d., which the girl had paid?—Yes.

21. Aaron Wharton—I am a clerk at the railway station at Hamilton. A box came to the station on the 5th July. **A. Wharton**

(Shown box, attached to label No. 19.) Is that the box?—It is like it in colour and shape.

Look at the nails which studded the box. Do you remember having seen these?—I did not observe these nails.

Lord Deas—Where did the box come from?—The South Side station, per the 4.15 p.m. train from Glasgow.

Mr. Gifford—What address was on it?—It was, "Mrs. Bain, Hamilton station; lie till called for." It lay at the station some days, and was taken away on Monday, or Tuesday, or Wednesday following. I know the boy Chassels. He came to the station on one of these days. He asked for a box, addressed "Mrs. Bain."

What did you say?—I said yes.

Did anybody else come?—When I was making a reply a woman came in and signed the name for the box. The prisoner is the woman.

A. Wharton

Lord DEAS—You saw the prisoner come forward and sign the receipt for the box?—Yes.

Mr. GIFFORD—What name did she sign?—Mrs. M'Lachlan. She and a boy carried it away together.

Lord DEAS—Did any way-bill come with it?—Yes; a way-bill came, stating what amount had been paid for it in Glasgow.

Do you remember what was paid?—Yes, it was 4d.

M. Chassels

22. MARION RAE or CHASSELS, wife of William Chassels, carter, Almada Street, Hamilton—I live in Hamilton. The prisoner came to my house on a day in July, about half-past two o'clock. She asked me if I would send a boy over to the station to carry a box for her. I said no. She said it was not a heavy one. I sent my son James. They both came back in about five or ten minutes. They brought a box with them, and brought it into my house. (Shown box or trunk, label No. 19.) That is the box. The prisoner asked for a cup of tea. She also asked if I knew a tailor of the name of Fraser. I said no, but I knew one of the name of Shaw. She said she did not know whether that was the name or not. She remained in my house about a quarter of an hour or twenty minutes. She asked my son James to take the box to a saddler's shop to get it mended.

Before she did that, did she open the box?—I did not see. I did not see her take anything out of the box in my house. When she went away she was carrying a bundle. She had not a bundle when she came. It was a pretty large bundle which she took with her. It was tied in a handkerchief. She went away with the bundle, and my son James with the box. I have another son, called Mirrilees. He showed me the handkerchief in which the bundle was tied, about five in the afternoon. (Shown a printed cotton handkerchief, label No. 37.) That is the handkerchief. I gave up the handkerchief to Mr. Dewar.

Cross-examined by Mr. CLARK—The bundle was not opened in my presence.

Did you see anything that was in the bundle?—Yes; a merino article of a brownish colour. She showed it to me, and said it was a merino wrapper.

How did she show it you?—It was tied in the handkerchief, and she held the bundle on her arm as she was going out, and I just saw part of it. I saw a portion of the gown and the bottom of a flounce, either bound or hemmed with the same material of which the dress was composed; at least, it was the same colour. The flounce had no fringe; there seemed to be no agitation about the prisoner. She paid me for what I gave her.

Mr. GIFFORD—Did she get anything else than a cup of tea?— She also got half a glass of spirits. M. Chassels

A JURYMAN—Was she carrying anything besides that bundle? —Not that I saw.

23. JAMES CHASSELS, twelve years of age, examined by Mr. GIFFORD—I am the son of the last witness. The prisoner came to my mother's house on a Wednesday or Thursday in July last. I saw her there. My mother asked me to go to the station for a box of the prisoner's. I went. (Shown box bearing label No. 19.) That is the box. I carried it back to my mother's house, the prisoner accompanying me. Some time afterwards, at the prisoner's request, I carried the box to Cherry, the saddler's shop. She went with me a part of the road, and then left me. She went with me to Church Street, and asked me if I knew where Mr. Shaw lived. I told her. J. Chassels

What did she say; did she say she was going there?—No, she did not say.

Did you take the box to Cherry's shop?—I did.

What was to be done with it?—The hinges were to be sorted and two straps put on.

Lord DEAS—It was her request that should be done?—Yes.

Mr. GIFFORD—To whom did you give the box?—To the shopman. I do not know his name, but I saw him here to-day.

When you first went to the railway station with the prisoner was she carrying anything with her?—Not that I noticed.

Was she carrying anything the second time that you left your mother's house with her?—Yes, she was carrying a bundle tied in a napkin.

Lord DEAS—Have you any questions, Mr. Clark?

Mr. CLARK—No, my lord.

24. MIRRILEES CHASSELS was the next witness called. He gave his age as nine past, and, having been cautioned by Lord DEAS to tell the truth, was examined by Mr. GIFFORD—I saw the prisoner in my mother's house in July last. I met her afterwards on the same day on the Brandon Road, leading to Hamilton. She said to me, "Here, boy, is a handkerchief I have found, take it home and hem it." (Shown No. 37.) That is the handkerchief. I took it and gave it to my mother. The Brandon Road is about five minutes' walk from my mother's house. I did not see her carrying anything. M. Chassels

Lord DEAS—Stop, my boy. Can you tell whether she was carrying anything?—I cannot tell whether she was carrying anything or not.

Mr. GIFFORD—Did you see both her hands when she gave you the handkerchief?—No.

Where was her other hand?—I do not know.

M. Chassels

Had she a cloak on that you did not see her other arm, or how was it that you did not see it?—Her hand was at the other side.

Cross-examined by Mr. CLARK—Which way was the woman going?—She was on the Brandon Road, going in the direction of the station.

J. Hamilton

25. JOHN HAMILTON, saddler, Hamilton, examined by Mr. GIFFORD—I know James Chassels.

Did he bring anything to your shop?—Yes.

On Tuesday, the 8th July?—It was something thereabouts.

Tuesday or Wednesday?—I think so. (Shown a box, labelled No. 19.) He brought that box.

It was James Chassels that brought the box?—I do not know the first name, but it was one of the Chassels. (James Chassels was here brought into Court. Witness identified him as the person who brought the box.) He left it with me.

Lord DEAS—You say it wanted hinges and two straps to prevent it bending too far back?—Yes.

Mr. GIFFORD—I gave it up to the police about eight days after—to Alexander M'Call. It was empty when Chassels brought it.

Lord DEAS—Did you mend it?—No; it was taken away before I got it done.

E. Gibson

26. ELIZABETH POLLOCK or GIBSON, wife of William Gibson, publican, Low Waters, examined by Mr. GIFFORD—I live at Low Waters, which is about a mile from Hamilton on the Strathaven Road. I saw the prisoner about the 8th July. It was either on Tuesday or Wednesday, and between three and four o'clock afternoon. I saw her in my house at Low Waters. She was carrying a large bundle below her arm. She asked for half a glass. I keep a public-house.

Lord DEAS—Half a glass of whisky?—Yes.

Mr. GIFFORD—I gave her a hail one. She was fatigued-looking. That was the reason I gave her a whole glass of whisky. She paid a penny for it, and then left my house. She went up the road—away from Hamilton.

Lord DEAS—In what direction?—In the direction of Meikle Earnock.

Mr. GIFFORD—The road breaks off a little way from your house?—Yes.

She went in the direction where they break off?—Yes.

Away from Hamilton?—Yes. I did not notice what the bundle was wrapped in. I never saw her again until she was in custody. She had on a black watered dress, a black shawl, and a black bonnet with black and blue ribbons. (Shown

the articles, Nos. 26 and 27, and identified them as being the same as those worn by the prisoner on the night in question.) E. Gibson

Is that the sort of dress she had?—Yes, I think so.

At all events, it is like it?—Yes, it was one like that.

Had she a shawl on?—Yes, she had on a black shawl.

Lord Deas—The black dress is the same as she had on then, is it?—Yes, sir.

27. William Gibson, husband of the preceding witness, examined by Mr. Gifford—Look at the prisoner. Did you see that woman come out of your house?—No, sir; she was out of my house before I saw her. W. Gibson

Going from your house?—Yes; I saw her about 30 yards from my house, going from it in the Strathaven way from Hamilton. That is in the direction of Meikle Earnock, and about a mile and a quarter from Meikle Earnock. My house is about a mile and a quarter from Hamilton. I looked after her.

Did the road branch a short distance from where you were?—Yes, sir; one leads to Meikle Earnock. She took the branch leading to Meikle Earnock.

Did you observe her meet your daughter?—No, not altogether near by.

You saw your daughter coming?—Yes, sir, and Marion Fairley, who was along with my daughter.

Did you see her stop?—No.

Did you see her as if she was speaking to them?—Yes; near by.

Was she carrying anything?—Yes.

What?—I do not know.

Well, but was it a box, or a bundle, or what?—It was a bundle.

Under her dress?—Yes.

Was it a shawl or a cloak, or what she had on?—I do not know. The bundle was under her arm.

28. Margaret Gibson, daughter of and residing with the previous witness, was next called. She gave her age as eleven years, and, having been cautioned to tell the truth by Lord Deas, was examined by Mr. Gifford—Look at this woman. (The prisoner here turned round in her seat and confronted the girl in the witness-box.) Do you know that woman?—Yes, sir. I saw her near my father's house on the 8th or 9th July, about four o'clock. Marion Fairley was with me. The prisoner spoke to me. She said, "Could you tell us a burn where to get a drink of water, for all the lang road that I have travelled I havena seen a burn or a M. Gibson

M. Gibson sheugh whaur a person micht wat their lips." I told her where to go to.

Lord Deas—Which of you—you or Marion?—Me.

Mr. Gifford—And what did you tell her?—I pointed out a way to a burn, the place that leads to the Tommy Linn Burn. That is the name of the burn. She went straight up the road—the Meikle Earnock Road. I saw her the length of the oak tree. The first oak tree on the road. She had the appearance of having a bundle under her arm. The oak tree I speak of is the first oak tree on the Meikle Earnock Road. I cannot say how far it is from our house. I then lost sight of her.

Lord Deas—You lost sight of her at the oak tree?—Yes, sir.

Mr. Gifford—Where is the Tommy Linn Park by that oak tree?—It is up the Meikle Earnock Road, not very far. I mind the Sunday after that. I was at the Tommy Linn Park that day.

Did you see anything in the park that day?—No.

Did you find anything in the park?—No. There is a hedge alongside of the park. I found some flannel clothing in the hedge.

Were the clothes in the hedge, or near it, or how?—They were thrust in it—I mean at the root of the hedge. It was on the side of the hedge next the Tommy Linn Park.

What did you do?—I pulled them out, and saw the flannel all blood. I then ran away, being frightened. I was there next day again, and saw the clothes lying there again. There was nobody with me when I found the clothes, but I told Marion Fairley about it, and next day, Monday, when I went to the park, she was with me. We went to the place, and saw the clothes lying there, just as I had left them. Marion Fairley and I looked at them again. We left the clothes there. I was there again with Daniel Stewart, policeman, and saw him take them. That is about a month ago; a good while. I did not take him to the place. I don't know who took Stewart to the place. Janet Campbell went with me on the day that Stewart got the clothes.

[A juryman here wished to put a question, when his lordship told him to take a note of it in the meantime.]

Examination resumed—I found Stewart there when I went. I saw him take the clothes that I had seen before, and lift them and bring them away. (Shown thirteen torn pieces of flannel, much stained with blood, labelled No. 20.) These are the clothes. I noticed the tuck or hem upon them.

After that Monday that you and Mary were in the park, did you see anything on the other side of the Earnock Road?—It was longer than that; I could not say how long. Marion

Fairley was with me. I saw a piece of wincey. It was across the road from the oak tree, on the opposite side. There is a hedge there, and the wincey was lying on the road near the root of the hedge. (Shown six pieces of wincey cloth, labelled No. 21.) That is the wincey. **M. Gibson**

Did you see anybody afterwards get that?—No. I just lifted it, looked at it, and left it there. On the same day that I saw the wincey I saw some coburg in Templeton Park, on the opposite side of the Tommy Linn Park, further on. There were a great many persons there. (Shown twenty pieces of coburg cloth attached to label No. 22.) That is the coburg. Templeton Park is just across the road from our house.

Did you afterwards see anybody take that coburg away?—No, sir.

Did you not see Daniel Stewart take it away?—Yes, sir.

Lord Deas (to the Jury)—Have you any question to ask at this girl?

The Foreman, speaking for his fellow-jurymen, said they had no question to put.

Lord Deas—You see, gentlemen, the benefit of waiting till the counsel have done with their examination of a witness.

29. Marion Fairley was the next witness. She gave her age as eleven, and, after having been cautioned by Lord Deas to tell the truth, was examined by Mr. Gifford—I live at Low Waters. I know the Tommy Linn Park. I was in the park with Margaret Gibson, the last witness, one day. I mind being with Margaret Gibson on the Meikle Earnock Road. I met the prisoner coming up from Gibson's house. It was on the 8th or 9th July. She was carrying a bundle. She asked where she could get a drink. She said she had come a long road, and could not get a sheugh or a burn to get a drink. **M. Fairley**

Lord Deas—A sheugh?—Yes.

Was it you or Margaret who answered her?—We both answered that if she went up the road she would get a burn near the gate.

Mr. Gifford—What did the gate lead into?—The Tommy Linn Park. She went on. We did not see her afterwards. We went down the road. We met in the Tommy Linn Park some days after. It was a Monday or a Tuesday. Margaret Gibson was with me. She showed me some flannel.

Lord Deas—You saw flannel, where?—In the park at the root of the hedge.

Mr. Gifford—We looked at it. It was bloody. There were a good many pieces of flannel. (Shown thirteen pieces of flannel cloth attached to label No. 20.) These are like the pieces I saw.

M. Fairley Do you mind of being with Margaret Gibson and seeing something else?—Yes. It was, I think, on Wednesday. It was lying on the road, near the hedge. It was wincey. It was in at the hedge. It was on the opposite side of the road from the oak tree. (Shown label No. 21.) These are the six pieces of wincey cloth that I saw. Neither Margaret nor I lifted them. We just looked at them and left them. The same day Margaret Gibson and I were in Templeton Park. Templeton Park is up above Tommy Linn Park.

Lord Deas—Is it on the same side of the road?—Yes, sir.

The Tommy Linn Park, I understand, enters from the road?—Yes, sir.

And the Templeton Park enters off the road, farther away from Low Waters?—Yes.

Mr. Gifford—What did you see there?—A brown gown. It was whole. It was lying under the hedge. We did not lift it, we only looked at it. We noticed there were fringes on it. There were some pieces of it torn.

(Shown label No. 22, being twenty pieces of coburg.) Is that like it?—That is it.

Lord Deas—(Shown thirteen pieces of flannel, label No. 20.) Did you see that in the Tommy Linn Park?—Yes.

Did you see those marks of blood on it that you now see?—Yes.

D. Stewart 30. Daniel Stewart, police constable, Hamilton, examined by Mr. Gifford—I was directed to and did make a search in the neighbourhood of Hamilton for clothes. On Thursday, the 17th July last, I found a brown coburg dress in a park called the Templeton Park. (Shown label No. 22.) That is it, and it was in the same condition that it now is when I found it. Templeton Park is about a mile and a half from Hamilton. I found it at the root of the hedge that bounds the park on two sides. A wee boy named Colin Campbell was with me at the time. I took it to Glasgow in the same condition in which I found it. I also found a flannel petticoat in the Tommy Linn Park. (Shown label No. 20, thirteen pieces of flannel.) That is it, and it was in the same condition when I found it. I labelled it and took it to Glasgow. It was at the root of the hedge that is next to the road.

Lord Deas—Was it inside the park?—Yes. I took possession of it, labelled it, and took it to Glasgow.

Mr. Gifford—The wee boy was with me when I found it. I did not observe a girl named Margaret Gibson, or one named Marion Fairley there, but there were a few people in the park afterwards.

Lord Deas—Were there any girls in the park when you found it?—There was only the girl and the boy. The girl was Colin Campbell's sister.

The boy Campbell is not here? D. Stewart.

Mr. Gifford—No, my lord.

Examination resumed—I know Margaret Gibson and Marion Fairley, but I did not observe them in the park.

Lord Deas—They might have seen you find the articles?—They might, but I did not observe them. There were a good many people there afterwards.

Examination resumed—On the roadside opposite to where I found the flannel petticoat, I found a wincey petticoat. (Shown six pieces of wincey, label No. 21.) These are the pieces, and after they were labelled I took them to Glasgow in the same condition as they were when I found them.

Cross-examined by Mr. Clark—I did not find nor did I see anything else found. These fields are about a mile and a half or thereabouts from Hamilton. Low Waters is not a very large village. It is a row of houses 200 or 300 yards along the roadside. These fields are about 600 yards from Low Waters.

How far was the place where the wincey was found from Low Waters?—About 500 yards, that is from the public-house, and about 400 yards from the nearest house in the village.

Are there no houses nearer the place where the wincey was found than Low Waters?—The toll is about 200 yards distant.

Is any other house than the toll nearer?—There is another house, occupied by Mr. Cooper, contractor, at about the same distance as the toll.

What sorts of crop were in the fields?—Grazing grass.

31. Andrew Cooper, police constable, Hamilton, examined by Mr. Gifford—In consequence of instructions, I made a search on the 18th July. Superintendent Dewar was with me. I found that flannel petticoat (label No. 24) in a field called Hollandbush, near Low Waters, and about 300 yards farther away from Hamilton than Low Waters. The fields were on the roadside, and separated from the road by a hedge. It was there I found the petticoat. A. Cooper

32. David Dewar, superintendent of police, Hamilton, examined by Mr. Gifford—I was with the last witness at Hollandbush in July last, and found a petticoat. I got that handkerchief (label No. 37) from Mrs. Chassels on 15th July. D. Dewar

33. Elizabeth M'Crone, shopwoman to Robert Murray, dyer, Argyle Street, examined by Mr. Gifford—A woman came to the shop on the 5th July last. E. M'Crone

Look at the prisoner—can you recognise her?—I cannot

E. M'Crone say whether she is the same person or not. She brought a French merino dress, of a cinnamon brown colour, and wanted it dyed black. I took it from her, and sent it to the dyeworks. (Shown label No. 32, which she identified). I afterwards gave the dress to the police. When the woman wanted the dress dyed I said it was a pity to dye such a pretty dress. She said she wished it to be black. She also drew my attention to a cloak she had on. (Shown cloak, labelled No. 33, and identified it.) She said she wanted it to cleaned. She was going to buy a plaid, and would come back with the cloak. She came back and gave me the cloak, and then had on a black plaid. She was away about half an hour. She then left the cloak. There were tassels upon it. When I looked at the cloak I said there was no use for the tassels; if she would wait I would cut them off. I then gave them to her, and she took them away. She gave the name of M'Donald. I entered the order in my book. The entry reads as follows:—"M'Donald, French merino lined dress, whole body black; and grey cloak cleaned." At the corner of the dress the letters "M'D." were fixed for M'Donald. These were put on when sent to the dyer's. I gave these to the authorities on the 14th July. There were no flounces upon the dress. It was in the same state then as now.

E. Rainny 34. Elizabeth Coulch or Rainny, wife of George Rainny, labourer, Govan Road, examined by Mr. Gifford—In July last Mary Black or Adams lodged with me.

Look at the prisoner. Did that person come to your house, and on what day?—Yes; she came one Saturday. It was the Saturday after Jessie M'Pherson's murder. She came about eleven or half-past eleven in the forenoon. She asked for Mary Black. She called her by that name. I said she was not in. She said to tell her Mrs. M'Lachlan was wanting her. She went away, but came back at a quarter-past one o'clock. I sent a boy to answer the door, and she asked for Mary Black, if she was in yet. I said no, and asked her to come in. She came in, and asked if I had a wee boy to go a message for her. I said no; and she then asked me to go. I went. She gave me a paper note and a pawn ticket to go and lift a bundle out of Hutchinson's pawn. I went to Hutchinson's pawn. It is in Argyle Street. I paid 3s. 1½d., and brought back a bundle and the change to Mrs. M'Lachlan. I did not see what was in the bundle until I came home. When I came home she opened it out. There was a dress in it. (Shown a black and blue shaded gown, labelled No. 27.) That is the dress. She said she was going to take the dress off she had on and take it to the

dyer's, and that she was wearied carrying the boy about the streets. She had a boy in her arms. I said it was a pity to dye the dress, for it was a nice one. It was a brown dress she had on. She said she would rather have it a black one. She then went away, but before going she gave me a penny to give to the twa weans, and a shilling to the young wean. E. Rainny

Did she say anything about going anywhere?—Yes; she said she was going down the water wi' her man, and she took off the dress in my house.

What did you say? She took off the dress?—Yes; she took off the dress in my house. (Sharply and angrily.) I tell't you before she took it off in ma hoose. It was a black poplin dress she put on. She said she was going down the water wi' her man.

No, no; but did she say where she was going with the dress she was taking off?—Yes; she said she was going to the dyer's with it.

(Shown article of inventory, No. 32, the merino gown.) Look at it?—This is dyed, ye ken (witness holding up parts of gown). It was a brown one then.

Look at the trimming, and say what it is like?—By the shape and make, I should say it was the dress.

What leads you to think it is the same shape?—It is the same shape of the body, but I would not swear it was the dress, though I think it is.

When did Mary Black or Adams come home that day?—At the back of three.

Had the prisoner on a bonnet?—She had no bonnet.

35. Elizabeth Steel—I am a shopwoman to Jane M'Innes or Reid, milliner, in Argyle Street. The prisoner came to the shop on the 7th July last; she bought a bonnet. (Shown a bonnet trimmed with blue ribbons, label No. 26.) That is the bonnet; it was sent home to her afterwards; the price was 4s. 10d. E. Steel

36. John Murray, a sheriff's officer—I went to Murray the dyer's on the 14th July; I got a black dress and a cloak. J. Murray

(Shown merino gown and cloth cloak, labels Nos. 32 and 33, and identifies them.)

37. Robert Lundie—I am assistant to my father, John Lundie, pawnbroker, East Clyde Street. I was in my father's pawn office on Saturday, 5th July. The prisoner came to the office between twelve and one on that day. She went into one of the boxes, and I went to ask her what she wanted. She said she wanted £6 10s. on silver plate. She gave me the R. Lundie

R. Lundie

silver plate I now see—six silver table spoons, six plated dessert spoons, six silver toddy ladles, a silver fish slice, a silver soup divider, two silver teaspoons, a plated sauce spoon, and six plated forks. The prisoner gave me all these. They were wrapped in the cloth shown me. She wanted £6 10s. I looked at them, and said I could give £6 15s. She said she had been sent with them by her mistress, as she was behind in her rent. James Lean was there at the time. I heard him ask her name. She said her name was Mary M'Donald, 5 St. Vincent Street. I gave her £6 15s., and kept the articles, and entered them in our books. I left town upon the Saturday, and returned on the Tuesday evening. By that time there was an account of the murder in the newspapers, and of a body having been found. There was also an account of the missing plate. That induced me to look at the plate. I immediately took all the plate to the police. The plate was marked "F." I saw all the plate labelled after I delivered it up to the police. There was nobody with the prisoner when she came. She had not a child.

Cross-examined by Mr. Clark—You had a difficulty in identifying the prisoner?—I had some difficulty at first. I was not sure. I identified her.

Was she shown to you in different dresses?—I believe she was.

How many?—Two.

James Lean

38. James Lean—I am an assistant in the pawnshop of Mr. Lundie, and was in the shop on the 5th July last. (Shown the plate laid before the preceding witness.) These articles were pledged in our shop on the 5th July last between twelve and one o'clock. They were taken in by Robert Lundie.

Look at the prisoner. Is that the person who brought them?—I can't say. It was a female. I asked her name. She gave it as Mary M'Donald, of 5 St. Vincent Street. I did not hear her say anything else. I paid no attention.

Cross-examined by Mr. Clark—Are you quite sure it was after twelve o'clock?—It was after twelve o'clock.

How much?—I could not say exactly.

You are certain it was after twelve o'clock?—Yes.

W. S. Dunlop

39. William Smith Dunlop, assistant to James Fullerton, ironmonger, Argyle Street, examined by Mr. Gifford—(Shown tin box labelled No. 28.) I recognise that box. It was sold in our shop. I see our private mark on it. It is on the bottom of the box. The box was sold on the 5th July by a person named M'Nish, who has since gone to Antigua, in the West Indies. It was bought in the morning, and the purchaser said she would

be back for it in the afternoon. I did not hear her say that, but I believe it was the case. She did not come back as she promised in the afternoon. W. S. Dunlop

Mr. Clark—Did you see the woman who bought the box?—I saw her when she returned for it.

Lord Deas—Were you present when the box was sold?—No, I was not.

Mr. Gifford—Look at the prisoner. Is that the woman that came to your shop?—She came on Tuesday or Wednesday, the 8th or 9th July. When she came we had some conversation about her not coming back on Saturday afternoon. I asked her about that.

Lord Deas—Just tell us what she said?—She asked for the box, and said that she had intended to have gone on Saturday, but she did not.

What did she ask for?—She asked for the box she had bought on Saturday.

Mr. Gifford—Tell us the exact conversation so far as you can recollect?—I asked her why she did not come back for it on Saturday afternoon. She said that she had changed her mind, and that she did not require to go as she had intended. I believe that is the most of the conversation that passed.

Did you give her the box?—That is my impression.

Was the box heavy when you lifted it?—It was as if there was something heavy in it.

Did you give it to her then?—It is my impression that I lifted it to the counter, and that she got it away with her. There was an address upon the box, but I cannot say what was the address. It was in M'Nish's handwriting.

Did she get it away with her?—I believe she did.

Lord Deas—Have you any doubt about it?—I have a doubt as to whether she got it away.

Did it remain in the shop?—It remained in the shop from Saturday to Wednesday.

Have you any doubt that she got it away on Wednesday? Did it remain in the shop after Wednesday?—No; it did not remain.

What is it you doubt about, then?—I doubt as to whether she took it away, or whether it was by her orders sent after her to some station.

But either one or the other of these things was done with it?—Yes.

Mr. Clark—Would your lordship please to ask what he means by sending it after her?

Lord Deas—You will have an opportunity of doing so.

Mr. Gifford—Did she say anything about a railway station?—On Saturday I saw the box addressed to the railway station at Edinburgh to lie till called for.

W. S. Dunlop Do you remember anything more about the address?—I do not, but there was a name. The address was in the handwriting of M'Nish.

When she came to you on Tuesday or Wednesday did she say anything as to the box going by railway?—She said it was to go by railway, but which railway I cannot recollect.

Lord Deas—Did she say that she was going by some railway, or that she was going to send the box by some railway?—That she was going to send the box by some railway.

Mr. Gifford—When you said that you had a doubt, was that as to whether she took it or it was sent after her?—Yes.

Where did you think it was sent to?—I cannot say.

Cross-examined by Mr. Clark—I did not take it out of the shop myself. It is a common tin box. We sell a good many of them.

Lord Deas—Is that all?

Mr. Clark—Yes.

[The next witness was then called. Suddenly, however, Mr. Clark said—]Let me see the box. You say that it is a common bonnet box, of which you sell numbers?—Yes.

Now, how can you tell us that it is the box that the prisoner spoke about on Tuesday or Wednesday when you saw her?—I beg your pardon. I don't understand the question.

How is it that you know that it is the box to which the address was affixed of which you spoke?—(No answer.)

How is it that you know that this is the box that left the shop on Wednesday?—James Fullerton was beside me and saw the whole.

No, no; never mind what James Fullerton saw. You have said that this is the box which was sent out of your shop on Wednesday; how do you know that it is?—I know it, because it has our private mark on it.

Have the other boxes that you sell not the same private mark?—No, they have not.

Lord Deas—Is there a private mark on the other boxes that you make?—Yes.

Well, is the private mark on that box different from the private mark on the other boxes?—No.

Do you put the same private mark on other boxes of that description?—We do on boxes of that size, my lord.

Then what the gentleman (Mr. Clark) is saying now is this—if you put the same private mark on the other boxes of the same size that you make, how do you know that that is the very box you sent out that Wednesday afternoon, and not some other box made in your shop?—I do not think that I can answer that question, my lord.

Mr. Clark—Do you say anything more than that this box was made in your shop?—I can say nothing more than that,

and that the prisoner at the bar is the person who came in that day. W. S. Dunlop

And that she got away a box of that description?—Yes.

That, surely, is not sufficient to warrant you in saying that it is the box which she got away?—It has our private mark.

I suppose all your boxes are marked in the same way?—In just the same way.

Dear me! can you say nothing more than that it was made in your shop?—I can say that it was made in our shop.

And that the prisoner got a box of that description away, or that it was sent after her?—Yes.

And even of that you are doubtful?—I have no doubt the box was taken or sent away.

Then do not say that that box is the box that the prisoner got away.

40. James Fullerton, jun., assistant ironmonger, Argyle Street, examined by Mr. Gifford—I am assistant in my father's shop, James Fullerton, sen., Argyle Street. I saw the prisoner come to my father's shop on the morning of Saturday, the 5th July. It was some time between nine and ten o'clock, as far as I can recollect. She had a bundle of some kind with her. I did not serve her. A lad of the name of M'Nish did. I heard her ask for a bonnet box, and saw M'Nish bring it to her. He brought more than one, and she selected one. (Witness shown a box, labelled No. 28.) She selected a box similar to that. It was the same size, the same shape, and japanned in the same way. When buying the box she asked for a lock. J. Fullerton

Cross-examined by Mr. Clark—I was not the person transacting the business with her.

Then do not say anything that you did not hear her say yourself.

Examination resumed—I saw her put a bundle into the box, put a padlock on it, and take the key. That is, the bundle she was carrying. I heard her requesting the address to be put on it. She asked the lad M'Nish. I saw him do it. I do not remember the address. It was, I think, addressed to Edinburgh; but I do not remember the other words on it. I heard her say to M'Nish she was going to Edinburgh in the afternoon, and that she would leave the box and call in for it in the afternoon.

Lord Deas—Did you hear her say that?—Yes.

That she was going to Edinburgh, or the box was to be sent?—Well, I cannot exactly say that; but she intended to go with the box to the Edinburgh station. Whether she meant she was going with the box herself or not I do not know.

Mr. Gifford—Did you hear her ask M'Nish anything about altering the address?—Not on that day. She then left. She

J. Fullerton did not return on Saturday. She was told that we closed at four o'clock on Saturdays, and she said she would come before that time. She came back either on the Tuesday, Wednesday, or Thursday in the week following. I saw her. She got another address put on the box. M'Nish put it on. He was there on that occasion also. He wrote a new one. It was a new card, and the other one was taken off by M'Nish.

Do you remember where it was to be sent the second time?—I think it was to Ayr, but I am not certain. She said she had called on the Saturday afternoon, but found the shop closed; and I think that she also requested us to send the box to the railway station. I only think that; I am not certain. I think it was the Ayr station she mentioned. That is the station in Glasgow for Ayr. The box left our premises on the same day the person came back the second time.

Cross-examined by Mr. Clark—I did not take the box away. I did not pay any particular attention to it, but I am almost certain I sent it away; I cannot say by whom. I have tried to find out whom I sent it with, but I have not been able.

John Rorke 41. John Rorke, clerk in the station, at Glasgow, of the Glasgow & Paisley Joint Railway, Bridge Street, and residing in Melville Street, Tradeston, Glasgow, examined by Mr. Gifford—It is part of my duty to take charge of the parcels to Ayr, and to keep the books.

(Shown article in inventory, No. 47, being book titled at the top, "Received in good order from Glasgow & Paisley Joint Railway Company," and asked to look at entries.) Point out entries for 9th July last?—There, sir.

Under the column "description" what is entered?—A tin box, addressed "Mrs. Darnley."

Yes; but look at column "description" by itself; what do you find there?—A "tin box" marked.

And under column "consignee"?—"Mrs. Darnley."

And under column "receiving station"?—Ayr.

Next column?—"Carriage 9d."

The next column is "charge paid on"?—Yes; but there's nothing entered there.

The next column is "to pay"; what is entered there?—"9d." I cannot say I have a good recollection of the box to which that entry refers, but I have a faint recollection. It was something of a japanned tin box. (Shown box, article No. 28 of inventory.) So far as I remember, it is something like that box. It was despatched to Ayr on the 9th July. (Shown article No. 44 inventory, being way-bill, titled "Glasgow & South-Western Railway Local Parcels Way-bill, Glasgow to Ayr, 4.30 o'clock train, 9th July, 1862.") That is the way-bill; it contains an entry relating to that box.

John Rorke

Cross-examined by Mr. Clark, who, having received the receiving book and way-bill, after looking them over, asked—I suppose there is a good deal of traffic at the station where you are clerk?—Yes, a great deal.

And the parcel traffic in this book for the Wednesday, 9th July, begins at page 73 and ends at page 81, both inclusive, does it not?—I do not know.

Look at it?—Yes, sir, you're right.

Now, how do you get that faint recollection of that box you speak of?—Well, I must have a recollection of the box.

Well, but how have you a recollection of that box that was shown you?—Because I have some faint recollection of all goods that pass through my hands.

Now, do you mean to say that you have a faint recollection of all the articles in that book?—No; but by looking at the entry I get a faint recollection.

By looking at the entry you get a faint recollection, eh? Now, Mr. Rorke, do you mind anything of that box at all?—I know no more than I have said.

Well, what was it like?—It was a tin box.

Have you any recollection of what sort of a shape it was?—No.

No colour, or anything more about it?—I do not know.

Lord Deas—Have you any recollection of the box?—No, my lord, nothing further than what the entry denotes.

What do you mean when you say you "have a faint recollection of a japanned tin box like the one now shown me"?—I could not state it better.

A. M'Millan

42. Archibald M'Millan, examined by Mr. Gifford—I am a porter in the service of the Glasgow & South-Western Railway at the Bridge Street station. I remember of a man coming to me some day in July last and speaking about a box that had been sent to Ayr. It was the 10th July.

Mr. Clark—Would you say positively it was the 10th?—I know it was either the 10th or the 11th.

Lord Deas—Do you mean, when he asked about a box, that he wanted to get a box?—Yes.

Mr. Gifford—You know the man?—I did not know him at the time, but I afterwards identified him; and I know now he is the prisoner's husband.

W. K. Craig

43. William Kerr Craig, examined by Mr. Gifford—I am a clerk in the Glasgow office of the Glasgow & South-Western Railway. I know Archibald M'Millan, the porter.

In consequence of something he said to you, did you write?—I gave the guard of the 8.35 p.m. train, on the 10th of July, a note.

W. K. Craig — Whom was the note addressed to?—It was a memorandum or note to the guard.

Have you that memorandum?—No.

Have you searched for it?

Lord Deas—In the guard's pocket?

Mr. Clark—What is the name of the guard?—Andrew Morran.

Mr. Gifford—Enclose this witness, and call Robert Blair.

R. Blair — 44. Robert Blair, examined by Mr. Gifford—I am a clerk in the Glasgow & South-Western Railway's service at Ayr. I remember of a japanned tin box coming to Ayr from Glasgow on the 9th July. (Shown the box attached to label No. 28.) That is like the box, but I could not say whether it is the same box or not. It was, I think, rounder upon the top than that.

Lord Deas—If it was rounder, how is it like it? It could not be like it if it is not like it. Look at the box, and say whether it was like that box or not?—It was not smashed in this way when it was at Ayr.

Mr. Clark—Was that what you meant when you said it was rounder?—Yes.

Did you pay any particular attention to it?—No.

Mr. Gifford—Did it lie at the office at Ayr?—Yes.

What was the address?—It was "Mrs. Darnley, Ayr; lie till called for." It came by the 4.30 p.m. train from Glasgow on the 9th, and it lay till the 11th at 9.50 a.m., when it was sent back to Glasgow. (Shown a way-bill with a label No. 45.) That is one of our local way-bills. On it I read, "Ayr to Glasgow, 9.50 train, of 11th July, 1862, one tin box; Mrs. Darnley; 9d. paid out and 9d. to pay."

Lord Deas—Does that mean 1s. 6d. to pay?—No; it means there was 9d. to pay when it came to Ayr from Glasgow.

Did you charge for bringing it back?—No, we did not charge. The guard brought down the note. The guard was Andrew Morran. It was in consequence of that note that I sent the box back.

By Mr. Clark—I cannot say how I got the note. I think I got it in the drawer.

Have you got that note?—I think I destroyed it.

Lord Deas—Did you look for it?—Yes.

Mr. Clark—When?—I could not say.

By Mr. Gifford—I was directed to look for it by the Fiscal. I made a search for it, but did not find it.

Mr. Clark—Morran is not here, and is not a witness. Witness says now that he did not know that the guard brought the note. All he knows is that he found the note in the drawer.

By Lord DEAS—I was told that the guard brought the note. I think I got it in my drawer. R. Blair

By Mr. CLARK—I paid no attention to the box when it arrived.

Did you know anything about it except what is known from the way-bill?—I saw the box in the office, but I did not pay particular attention to it.

And your impression left as to the box is that it was a rounder box than the one you saw to-day?—It was not so much "bashed" in.

Was it quite flat on the top?—I could not say. It is my impression that it was round on the top, and that it was not a box with a flat top that I sent back.

Lord DEAS—Is the box now pressed in? (Box again placed before the witness)—Yes.

Was it so when you sent it away?—No.

Can you tell whether it was round or flat at the top?—I could not say. I think it was round.

By a JURYMAN—I think it was oval at the top.

45. ROBERT YOUNG—I am a clerk in the parcel office at the Bridge Street railway station, Glasgow. (Shown a book, label No. 53, titled at the top, "Received in good order from the Glasgow & Paisley Joint Railway Company.") That is a parcel delivery book. R. Young

Lord DEAS—Is it a receipt book kept for articles that are to be delivered in Glasgow?—Yes.

Mr. CLARK objected to the book being produced as evidence, and the witness was withdrawn.

Mr. GIFFORD—I am going to ask the witness what the entry in that book refers to, whether it was a box similar to the one shown, and to whom it was to be given. I want to prove that this was given by this witness to a person.

Witness was recalled, and shown the book again.

Lord DEAS—To what does that entry refer?—It refers to a tin box which came from Ayr, and was to be delivered in Glasgow to a person named Darnley. The box was delivered by me at the Glasgow station to a person who called for it.

What person?

Mr. CLARK objected to this line of evidence, unless the person to whom the box was delivered were put into the witness-box.

Lord DEAS inquired whether Mr. GIFFORD had any objection to withdraw the question?

Mr. GIFFORD, after consideration, agreed to withdraw it in the meantime.

Lord DEAS would not say that the question was incompetent, but thought it might embarrass the case, and that it was better not to press it.

Examination resumed by Mr. GIFFORD—The box I now see

R. Young is like the one I gave away, in size and colour. It had been addressed, "Mrs. Darnley, Ayr." Ayr had been scored out, and Glasgow substituted.

Mr. Clark—Do you remember anything of the shape of the box?—Yes.

How do you mind it?—It was a box like this. I mind it because I gave it to the person who called for it.

E. Reid 46. Elizabeth M'Lachlan or Reid, residing in Drumfrochar Road, Greenock, examined by Mr. Gifford—There was a box brought to my house on the 11th July last. (Shown tin box, No. 28.) It was a box like that. It was the same size, colour, and shape. There was no address upon the box when I got it, which was about a quarter-past five, or rather later, on Friday, the 11th July.

Who brought the box?

Mr. Clark—Do you propose to call the person who brought the box?

Mr. Gifford—No.

Mr. Clark submitted that it was incompetent to ask the question.

Mr. Gifford (to Witness)—Do you know the person who brought the box?—Yes.

Do you know him very well?—Yes.

Now, my lord, I have to ask you to allow the question I have stated to be put to the witness. It is merely whether a certain person that she knows did a certain thing.

Mr. Clark—That person will not be called, and the question can only be asked to raise a prejudice against the prisoner at the bar; and unless that person is brought to connect the prisoner with the box, I do not think that the name can be evidence.

Lord Deas—I consider the question quite competent.

Mr. Gifford—My lord, if you think it will cause any embarrassment I will withdraw it.

Lord Deas—You can do as you please. I consider the question competent.

Mr. Gifford (to the Witness)—Well, who brought the box?—It was my brother, James M'Lachlan, who is the husband of the prisoner. (At this stage of the examination the witness, who had been deeply affected from the commencement, began weeping, and let her veil down.) I did not see the box opened.

Did you see any of the articles that were in the box?

Mr. Clark—What day do you refer to?

Mr. Gifford—I am going to ask if she saw some articles.

Mr. Clark—I suppose all this was done after the prisoner's husband was discharged.

Mr. Gifford—(to Witness)—What day was it on which you

saw certain articles of dress?—It was on the Saturday morning. E. Reid

Was that the Saturday after the box was brought to your house?—Yes.

Lord Deas—What day of the month was it?—It was the 12th of July. The box was delivered on the 11th.

Mr. Gifford—Did you see these things in your house (showing labels No. 29, a velvet cloak and a cloth cloak; No. 30, a black silk dress, a brown silk dress, and a silk polka; and No. 31, a black plaid)?—Yes.

Lord Deas—You saw these dresses, less or more?—Yes.

Mr. Gifford—Where did you see these on the Saturday morning?—I saw them lying on a bed in my house.

Did you put them anywhere?—Yes, I put them into a drawer.

Lord Deas—You did not put them into the bed?—No.

Mr. Gifford—Well, how long did they remain in the drawer?—From Saturday morning till Wednesday morning.

Did you see anything done with them on Wednesday?

Mr. Clark—Now, this was a day subsequent to that on which the prisoner's husband was examined and had made his declaration.

Mr. Gifford—I don't think that it matters.

Mr. Clark—I think it matters a good deal.

Lord Deas—I am satisfied the question is perfectly competent.

Mr. Gifford (to Witness)—Did you see anything done with them on the Wednesday?—I saw them put into the box.

Did you see the box addressed?—I saw an address tied upon the box after the things were put in.

What was the address?——

Mr. Clark—Stop a little! Who wrote the address?

Mr. Gifford—I am not asking that question; I thought you would object to it. (To Witness)—What was the address?—"Mr. Thomson, County Buildings, Glasgow; to lie till called for." Then the box was taken from my house, and I never saw it again. A porter called for it; his name was Laurie.

47. Donald Laurie, porter, Hamilton Street, Greenock, examined by Mr. Gifford—I now know Mrs. Reid, the last witness. She lives in Drumfrochar Road. I went to her house on the 16th of July last, about a quarter-past nine o'clock. I got a box there. (Shown tin box, No. 28.) That is very like it, but my eyesight is not so good now; but it was a box like that in shape, size, and colour. It was very like that. I did not look to see the address upon it. I took it to the booking-office of the railway station, and I ordered it to be booked for Glasgow; that was the direction I got. I gave it to Martin. D. Laurie

Is that Alexander Martin?—It's Martin we call him. He is a servant in the railway office.

A. Martin

48. Alexander Martin, parcel deliverer, Greenock, examined by Mr. Gifford—I am in the service of the Caledonian Railway at Greenock. I am parcel deliverer. I was in the office on the 16th July last. The porter, Donald Laurie, came in that morning, and brought a tin box. He gave it to me to send it up to Glasgow by the quarter-past nine o'clock train. (Shown tin box, No. 28.) This is like the box; it is the same shape, colour, and size. It was too late for the quarter-past nine o'clock train, and I laid it down to go by the half-past ten train. I did not see the box put into the next train; but I saw it taken out for the purpose of being placed in the train. I did not see it on the platform; but I saw it going upstairs to the platform.

Mr. Clark—Is that the address that was upon it?—No.

Mr. Gifford—Read the address?—Oh, yes, that is the address. It is "Mr. Thomson, County Buildings."

J. Hughes

49. James Hughes, parcel deliverer, Greenock Railway station, and residing with John Chisholm, tailor, William Street, Greenock (shown article No. 46 of inventory, being way-bill titled "Caledonian railway guard in charge (to be filled in by receiving station), parcels way-bill, Greenock, to Bridge Street, departure, 10.30 a.m. train, 16th of July, 1862")—That is the waybill for train to Glasgow, 10.30 a.m., on that date. The entry is—A "T" for "Tin" and "Box"; consignee, "Mr. Thomson, Glasgow"; weight, 16 lbs.; to pay, 4d. That is all the entry with regard to the box. I entered it. I saw the box. That is like it. It was a box of the same colour.

Lord Deas—Is it the same shape?—It's like the same shape.

And size and colour?—Yes, my lord.

Cross-examined by Mr. Clark—There's a great many tin boxes come to Greenock station?—Yes.

Now, what do you mean by this box being like the same size?—By the same size, do you ask?

Yes; did you take any notice of it whatever at the time?—No.

Then, if you took no notice of it at the time, how do you know it is like the same shape and size and colour?—Because the box was spoken of to me. There was a police officer at the station a few days afterwards.

Yes; but have you any recollection of it yourself? If you took no notice of it, how do you know anything of its size and shape and colour?—I know from the colour of the box that went.

But if you took no notice of it, how do you know its colour?—I recollect the box.

Yes; but do you recollect anything more than that it was a tin box?—No.

Then, if you recollect no more than that it was a tin box that went, how do you know that that is the same size and shape and colour?—Because it's like the same.

Will you tell me how "T Box" stands for "Tin Box"; might it not stand for "Tea Box"?—No. J. Hughes

Do you never put down "T" for "Tea Box"?—No, sir.

Lord Deas—You say you saw the box when it went away, and that you recollected it when you heard the police officer inquiring about it?—Yes, my lord.

Did the circumstances of the police officer inquiring about it, a few days afterwards, make you keep it in your memory?—No, my lord, it was the Fiscal.

Then the police officer and the Fiscal's inquiries about it made you keep it in your mind?—Yes, my lord.

Mr. Clark—Did you learn about the box from either the police officer or the Fiscal?—No, sir.

A Juryman—Did the police officer describe to you what sort of a box it was?—No, sir.

Did the Fiscal?—No, sir. The Fiscal got the way-bill, and came to see whose handwriting it was in, and I recollected of it then.

50. John M'Intyre, clerk in parcel office, Bridge Street station, and residing with James M'Intyre, commission merchant, Woodlands Road, Glasgow (shown article No. 53 of inventory, titled "Received in good order from the Glasgow & Paisley Junction Railway Company")—That is my receipt book. J. M'Intyre

Look at entry, M'Intyre; what is it?—A "tin box, Mr. Thomson," The entry reads—"16th July, 10½ train, a tin box; consignee, Mr. Thomson; 4d. to pay." It is from Greenock. The signature, "A. M'Call," is Alexander M'Call, superintendent of police in Glasgow. (Shown article No. 28 of inventory, the japanned box.) That is the box referred to. I gave that box to Alexander M'Call. I signed the label attached to it at the time as I gave it up. I saw the label there. The box was full. Mr. M'Call took it away.

Lord Deas—How do you know it was full?—The lid was a little open, and I saw the clothes in the inside.

Mr. Clark—Was there any lock upon it when you saw it?—The lock was broken.

51. Margaret MacInnes or MacLachlan, widow, residing at Penmore, in the Island of Mull, examined by Mr. Gifford—I was a servant with John Fleming, 17 Sandyford Place, last spring and till the 1st of May. I had been there four months preceding the 1st of May. Jessie M'Pherson was a servant there also. We were the only two servants at the house in Sandyford Place. I had occasion to see Jessie M'Pherson's dresses. (Shown velvet cloak and cloth cloak attached to label No. 29.) These are Jessie M'Pherson's dresses. (Shown black silk dress, brown silk dress, silk jacket Margaret MacLachlan

Margaret MacLachlan

and polka, to which were attached label No. 30.) These are Jessie M'Pherson's dresses. (Shown black plaid attached to label No. 31.) That is Jessie's plaid. (Shown merino gown, to which was attached label No. 32.) That is a dress of Jessie's; it is of a different colour now. When it was in Jessie M'Pherson's possession it was of a cinnamon brown colour. I recognise it by the trimming, although the colour is different.

Look at the gown; has it been dyed?—It has been dyed since it was in Jessie's possession. She had all these dresses when I left on the 1st May. (Shown an iron cleaver, labelled No. 4.) That was in Mr. Fleming's house when I was in it.

Lord Deas—It was in Mr. Fleming's kitchen?—Yes.

Mr. Gifford—I don't know Mrs. M'Lachlan, the prisoner. I heard Jessie M'Pherson speak of her. She said she had a respect for her, and spoke of her in a friendly way.

Cross-examined by Mr. Clark—How do you know that black plaid?—By the narrow border which is sewed on it.

Did you never see a plaid like that before?—No, sir; I don't recollect.

Will you let me see what you call a narrow border? (Shows the plaid.) You did not see it sewed on?—No.

It was that way when it was made, so far as you know?—Yes.

Are plaids like that bought in shops?—I never saw them; I had that plaid often in my hands.

All you can say is this, that Jessie's plaid had a narrow border like that?—Yes; it had been green, and dyed black.

How do you know that it was of a different colour?—I was told so by Jessie.

Can you say that the plaid you now see was once green?

Lord Deas—She does not say that; she says it was Jessie M'Pherson told her that the plaid was once green.

Lord Deas—Can you say from looking at it yourself that it has been dyed?—Yes, sir.

Do you know it from its general appearance, as well as from that narrow border?—Yes.

You had it often in your hands?—Yes, often.

Have you any doubt it is her plaid?—I have no doubt.

Mary Downie

52. Mary Downie, servant, Brandon Place, Glasgow, examined by Mr. Gifford—I knew the late Jessie M'Pherson intimately. I have known her for nine years past last March. I was in service with her. She and I carried on business together. We were a twelvemonth in business in Gray Street, Finnieston, as grocers and victuallers. (Shown a velvet cloak and cloth cloak, labelled No. 29.) She bought that cloak when she was in Mr. Fleming's the first time. The other cloak she bought when she and I were in Mr. Arnott's, Jamaica Street. (Shown a black silk dress, a brown silk dress, and a silk jacket, labelled No. 30.) These are all

Jessie's dresses. I was with her when she bought the black watered one. The brown dress was bought in Falkirk before I kent her. So she told me. (Shown plaid, labelled No. 31.) That is Jessie's plaid. It was bought in Falkirk. I have seen her wear all these dresses. When she was in Mr. Fleming's she used to keep them hanging at the press door at the foot of the bed. **Mary Downie**

Had she a trunk? Did she keep any dresses in it?—Yes, some of them.

(Shown merino gown, labelled No. 32.) Look at that?—It is her brown cinnamon.

Is that Jessie's dress?—Yes; she got it from Dr. Morton when he was married. She told me that he lives at Bolton, and Jessie M'Pherson was at one time in his service.

What colour was the dress?—It was a brownish merino one when she had it, but it is now dyed black. It was not black when Jessie had it, and I would not have known it but for the body, which has velvet trimmings upon it. (Witness also identified a flannel petticoat, labelled No. 24, as belonging to Jessie M'Pherson.)

Mr. Clark—When did you see Jessie last?—I saw her last on the 18th May. I remember the date by having gone to Troon on the 20th.

Lord Deas—Did she give up business at the same time as you did?—Yes.

She never resumed business?—No.

You know old Mr. Fleming?—Yes.

Have you ever seen him in your shop in Anderston?—Yes, often.

53. Margaret Fleming, sister of and residing with John Fleming, was next called, and examined by Mr. Gifford—In July last I was living at Dunoon, in Mr. Fleming's cottage there. Jessie M'Pherson was left in charge of the house at Sandyford Place. There was no other servant there. There is a pantry off the kitchen with a window looking to the back. The larder is to the front. There are drawers in that closet or pantry. One of the drawers was used by the old man, and the other, which belongs to the house, was used by me. I had occasion often to see Jessie M'Pherson's dresses. **M. Fleming**

Lord Deas discouraged the re-opening of this line of evidence, and Mr. Gifford resumed his seat.

Cross-examined by Mr. Clark—Where was the room in which the old man slept?—It was in a room above the kitchen, on the dining-room floor.

[The Court then adjourned at about thirteen minutes to nine till ten o'clock next morning, and the jury were enclosed, in terms of the deliverance pronounced on the previous day.]

THIRD DAY.

At Glasgow, the Nineteenth day of September, 1862. Present the Honourable Lord Deas, one of the Commissioners of Justiciary. Present also the Sheriffs as in the sederunts of yesterday and seventeenth instant.

Intran. Jessie M'Intosh or M'Lachlan, now or lately prisoner in the Prison of Glasgow, Pannel.

Indicted and Accused as in the preceding sederunt.

The jury having come into Court, they all answered to their names on their being called over, and the Advocate-depute adduced the following additional evidence.

A. Sloan

54. Andrew Sloan, examined by Mr. Gifford—I am clerk and cashier to Mr. John Fleming, accountant, Glasgow. I know Mr. James Fleming, Mr. John Fleming's father. I have known him for about fifteen years. I don't know his age. Some time before this occurrence—perhaps a year or two—I heard him mention it. He called himself about eighty-five. At present and for some time past he has been engaged in lifting the rents of a small property with about twenty tenants.

Lord Deas—By a small property you mean that he collected the rents of a number of small houses?—Yes.

Examination resumed—The property belongs to the trustees of the late James Rankin. Mr. John Fleming employs old Mr. Fleming to take charge of the rents of that property. He is factor for the trustees. James Fleming is paid about £40 a year for his services. I pay him as cashier for his son. The salary is paid weekly. The rents which he lifts he delivers over to me.

What sort of a man is he mentally?

Lord Deas—I think we have as good an opportunity of judging as the witness, who is not a medical man. You may ask him this (addressing the witness), There is nothing wrong with is mind that you ever heard of?—No.

And he has faculties as entire as you could expect at his age?—Yes, my lord.

Examination resumed—I remember the Monday when the murder was discovered.

Lord Deas—That is the day when Jessie M'Pherson was found dead in the house in Sandyford Place?—I recollect that, my lord.

Examination resumed—Old Fleming was in the office on Saturday, 5th July, for about half an hour. He did not speak to

me, nor I to him. He was in the office on Monday, 7th July, at nine o'clock in the morning. On that morning he paid me over some small rents which he had received. The amount was £2 6s. 8d. in silver money. He left the office shortly after ten o'clock. I did not see him again in the office that day; I was in the house at Sandyford Place at night, and saw him again. Nothing passed in the forenoon about the servant's being absent. Old Fleming appeared in his usual way. A. Sloan

Did you know whether old Fleming had money in the bank?—I do not know of my own knowledge.

You said he left about ten o'clock. Did John Fleming, the grandson, or John Fleming, the son, come in before he left?—He left before they came.

Lord Deas—Did John Fleming, sen., and John Fleming, jun., come that day?—The grandson came at eleven, and the father, John Fleming, two or three hours later.

55. John M'Allister, calenderer, West George Street, Glasgow, and residing in Berkeley Terrace, examined by Mr. Gifford—I know James Fleming, father of John Fleming, accountant. I have known him about forty years. I am fifty-eight years of age and have known him since I was a boy. When I first knew him he was a small manufacturer in Anderston. He made shawls and damask cloth. He had a grown-up family when I first knew him. I do not know what he was in early life. Some of his family were considerably older than I am. He goes to Mr. Aikman's, the U.P. church in Anderston. I do not attend there. I remember Sunday, the 6th July last. I met Mr. Fleming that Sunday just as I was coming out of my own house. That would be about eight minutes before eleven in the forenoon. J. M'Allister

Lord Deas—That was the time the churches were going in?—Yes, sir.

Mr. Gifford—What did you say to him?—He made some remark about the weather.

Well, did anything else pass?—I said, "Are you still going down to the old church, Mr. Fleming?" "Yes," said he, "there's no use changing now."

Had old Mr. Fleming always a respectable character?—So fas as I know.

Cross-examined by Mr. Clark—At least you never heard anything?—No; never till this case happened.

Do you not know that he was before the kirk session?—I did not know till this affair.

Then you have heard something against him?—Yes; in the newspapers I have.

Lord Deas—Now, Mr. Clark, this need not be opened up just now with the witness.

W. M'Kim

56. William M'Kim, teller, National Security Savings Bank, Wilson Street, Glasgow, examined by Mr. Gifford—I know Mr. James Fleming, father of John Fleming, who resides in Sandyford Place. He has an account with our bank. (Shown article No. 58 in inventory, titled "Pass-book of the National Security Savings Bank, No. 130,432, James Fleming.") Mr. James Fleming had at his credit on 4th July last £150, and the same sum on 5th July. He has had that balance of £150 since 2nd December, 1861. He might have had more, but the rules of the bank do not allow him to give in more.

T. Somervail

57. Thomas Somervail, examined by Mr. Gifford—I am agent for the Argyle Street branch, Glasgow, of the Royal Bank of Scotland. I know James Fleming, who opened an account in the branch bank under that name, but I do not know him to be the father of Mr. John Fleming. I know the man by sight quite well. (Shown bank pass-book No. 59.) That is James Fleming's pass-book. He has £30 at his credit.

How long has he had that sum at his credit?—The last payment he made was on the 1st of July.

Lord Deas—Has the sum at his credit stood at that sum since 1st July?—He paid £5 on that day. The balance before that stood at £25.

Mr. Gifford—For how long?—The previous payment was on the 12th of April, £5.

Lord Deas—What I have taken down is, "There stands at his credit a balance of £30, and it has so stood since 30th July last. Before that it had been at £25 from the 12th April preceding." Is that correct?—Quite correct.

E. Brownlie

58. Elizabeth Brownlie, examined by Mr. Gifford—I am a servant to Mr. Robert Stewart, jeweller, No. 16 Sandyford Place. I know Mr. Fleming's house. It is No. 17, next door to ours. I was in service at Mr. Stewart's house in the month of July last, and was in Mr. Stewart's house on the night of Friday, 4th July. I was always in the house during the night. I slept as usual in my bedroom on the night of the 4th July. I did not hear any noises during the night.

Your house adjoins that of Mr. Fleming?

Lord Deas—She said that it was next door.

Mr. Gifford—The houses do not stand separately?—No; the houses in Sandyford Place are a continuous row.

Can you, in Mr. Stewart's house, hear noises that occur in the one adjoining—in Mr. Fleming's?—No.

Is there any part in the house on the lower flat where you could hear noises in Mr. Fleming's house?—Yes, we would hear the noise of the breaking of a piece of coal, for instance, in the kitchen.

Did you call at No. 17 Sandyford Place, at Mr. Fleming's, on the next morning?—No, not till the afternoon. E. Brownlie

Was that on the Friday?—No; I was not in Mr. Fleming's on that night. It was the next day, Saturday, between two and three. I rang the bell of Mr. Fleming's house. Old Mr. Fleming answered it.

Tell us, then, what took place?—I asked for the loan of a spade.

And what did old Mr. Fleming say?—He told me to come in. I went in, and went down stairs. He went with me. I went to the back door. It was standing open. I went out of the house. Old Fleming then went half-way down to the washing-house. He did not go all the length, but turned back.

Lord Deas—Was the washing-house in the outside?—Yes.

Was it below the level of the kitchen?—Yes.

Mr. Gifford—When you go out at the back door, is the washing-house opposite?—Yes.

How many steps is it below the level of the kitchen?—Only one.

Lord Deas—It is quite sufficient to know that it was below the level of the kitchen.

Mr. Gifford—Well, did he give you the spade?—No.

What did he say?—He said the door was locked.

Lord Deas—The washing-house door?—Yes.

He said the washing-house door was locked, so he could not give you the spade?—Yes.

Mr. Gifford—Did he say anything?—He said the girl was out. I understood that he meant his servant. I knew her.

Lord Deas—What was her name?—I heard her called Jessie.

Her other name?—I did not know her other name.

Mr. Gifford—Did he say anything more?—I asked if the key would be in the kitchen, and he said he had looked. He did not look in the kitchen, where I understood that he had looked before. The kitchen door was standing open. I saw into it. I saw screens of linen hanging before the fire. I had no other conversation with Mr. Fleming. I said perhaps that I would get the spade again. He said, "Yes, you will get it at any time."

Did you happen to notice the floor of the lobby or kitchen?—No.

Lord Deas—You observed nothing particular about it?—No.

By Mr. Gifford—I saw Jessie's dead body on the Tuesday following. That was when the doctors were examining it.

Cross-examined by Mr. Clark—Mr. Fleming did not try the washing-house door. He did not walk the length of it. I was not in the kitchen at all. Mr. Fleming walked down out to the back green, and I went after him. And from his saying

E. Brownlie that the door was locked we walked back again. That was between two and three o'clock. I had no particular time to take my dinner. I am quite sure it was between two and three o'clock.

Did you see the old man before that?—Yes.

Old Mr. Fleming?—Yes.

Did you see the old man any time that day before you saw him in the afternoon?—Yes.

Lord Deas—You are speaking of the Saturday still?—Yes.

Mr. Clark—Where did you see him?—Going down for coals.

At what time?—At about ten o'clock.

Lord Deas—At ten in the morning?—Yes.

Mr. Clark—Where did he go for coals?—To the coal cellar. It adjoins the washing-house in the back green.

Did you notice anything in Mr. Fleming's manner when he was going for the coals?—Yes.

What was it?—He looked round to see if any person was looking.

That struck you at the time?—Yes.

Did you ever hear Jessie speaking of Mr. Fleming?

Lord Deas—He means old Mr. Fleming?—Yes.

Mr. Clark—What did she say about him?—She said that he remarked everything that was within the house.

Did she say anything more?—She said he knew all that we did on the other side.

Lord Deas—He watched all that the girls did upon the other side?—Yes.

You understood by that that he watched all that the girls did?—Yes.

Mr. Clark—When he could see?—Yes.

All that was done in your house?—Yes; all that we girls did when we were on the outside.

Do you mind of Jessie saying anything about his seeing, that is about his eyesight?—Yes; she said that he could see without spectacles.

Did he ever use spectacles?—I did not ask Jessie; but she said he could see and read the newspapers without spectacles.

By Mr. Gifford—I do not mind of the Saturday before that Saturday, nor the Friday night before that.

Do you mind of being about a week before that in the back green when the back door of Mr. Fleming's house was opened?—I don't remember that; but I remember being down a fortnight before that Friday night.

Lord Deas—Where were you then?—At our back door.

Mr. Gifford—Could you see from where you were the back door leading from Mr. Fleming's green into the lane?—Yes.

Did you see anybody at the door?

Lord DEAS—Her own door, or the door that leads out to the lane? E. Brownlie

Mr. GIFFORD—Her own door, that leads out to the lane.

Well, you saw Jessie at that door?—Yes.

Did she let anybody in?—Yes.

Do you know who it was?—No.

Was it a man or a woman?—A woman.

What hour was it?—At ten o'clock.

Did Jessie say anything to you?—Yes, she said, "That auld deevil was jist new awa' tae his bed!"

Lord DEAS—What Jess said to a woman whom the witness did not know is no evidence against the prisoner whatever. It may be in her favour.

Mr. CLARK—Did you understand the "old devil" to refer to old Mr. Fleming?—Yes.

Lord DEAS—I suppose we all understand that.

[The next witness was then called, but before he was placed in the witness-box,

A JUROR said that the jury wished to have plans of Mr. Fleming's house laid before them.

Mr. GIFFORD—I shall have great pleasure in providing the plans.]

59. ANDREW DARNLEY, patternmaker, at the Falkirk Iron Works, Falkirk, and residing in that town, examined by Mr. GIFFORD—I live in Falkirk. I knew Jessie M'Pherson. She was a servant in my father's house some years ago. She kept up communication with my people after she left. I last saw her about two years ago, when she paid a visit to Falkirk. I was in Glasgow on Saturday, the 5th July last, and called upon Jessie at Mr. Fleming's house in Sandyford Place. It would be about six o'clock in the evening, or a little past it. I rang the bell. It was opened by an old man. I suppose it would be Mr. James Fleming. I saw him in the witness-room. A. Darnley

Tell us what passed?—Well, when I rung the bell, an old man answered it. I asked if this was where Mr. Fleming stopped? He said "Yes." I then asked if there was one Jessie M'Pherson here? He said "No." I then asked if there was not a servant named Jessie M'Pherson. He said "Yes." He appeared to be a little deaf. I then asked was she in the house? He said "No."

Lord DEAS—In the house, that is?—Yes. I then asked if he knew where she was? He said "No." I then asked if she had been long out? He said she had been out a good while; that was what he said.

You then went away?—I told him that I came from Falkirk, and that I had come to call upon her.

A. Darnley

What more?—I left my name.

To be told to her?—Yes.

Well?—I told him that I was going home that night, and I then went away.

Mr. Gifford—Did he ask your name, or did you give it without his asking?—I told him my name without his asking me.

Did you go back again?—Yes; I went back on Sabbath night about seven o'clock. I did not go home on Saturday night. I changed my mind, and stayed with a friend. On going back I rung the bell. Mr. Fleming answered it.

Tell us what passed?—I asked if Jessie was in to-night. He said no. I then said to him, surely she was often out just now. He never answered me.

Well, did he say anything more?—No. I told him that there was a friend waiting for me outside the gate, and I went away.

Did he say nothing about your not going home the previous night?—He said, "You did not go home last night?" I said, no; that I was going to stay till Monday.

Cross-examined by Mr. Clark—Did he speak to you about your sister?—Yes; he said, "It would be your sister that was up here staying a day or two with her?" I said "Yes."

Was that on Saturday or Sunday night?—It was on Saturday night.

When you told him your name was Darnley?—Yes.

When had your sister been there?—I cannot say how long it was before that. She was there a day or two, but I cannot exactly say when.

Might it be a month or so before that?—Yes, I think so.

C. O'Neill

60. Charles O'Neill, architect, Abbotsford Place, Laurieston, Glasgow, examined by Mr. Gifford—I was asked to prepare plans of 17 Sandyford Place on the 8th of July. The dead body of the woman was still lying there. I made a minute examination of the premises, and made the six plans labelled No. 54. They are correct.

Look at them in their order, and tell us what they are?—No. 1 is the plan of the sunk floor.

Besides the ground plans, what other plans have you made?—I have given some isometric views of the house, in which I have marked where the articles of furniture, &c., were placed. I made the inspection when these articles were there.

Lord Deas—The plans, as I understand, represent what you saw?—Just so.

Mr. Clark—Mr. O'Neill, there is a sort of reddish streak on plan No. 1, commencing at the closet in the kitchen and passing through the kitchen door along the passage into the

servant's bedroom; what is that intended to represent?—In the kitchen it shows that the floor had the appearance of being washed, and in the lobby it appeared that something wet had been dragged along it into the bedroom. C. O'Neill

Had there been any appearance of that having been washed or rubbed off?—No.

In the bedroom what does it show?—That the same track as that in the passage went into the bedroom.

Was the track in the passage dry when you saw it?—It was dry then.

What is the redness of the trail intended to indicate?—That it had a reddish hue as if of blood.

What kind of stone was the stone of the kitchen floor?—It was a hard bluish stone.

Lord Deas—Was it hard blue pavement?—Yes.

Mr. Clark—Would it dry rapidly?—I would think so.

What is that mark in the servant's bedroom between the table and hearthstone?—That represents a portion of the floor that had been washed. All the lower windows of the house are stanchioned, and the stanchions are entire. The height of the sunk front area from the ground to the top of the wall is about 6½ feet.

How high is the railing on the top of the wall?—About 3 feet 9 inches.

Lord Deas—You said, Mr. O'Neill, that the windows of the lower floor were all stanchioned; is there a wicket on one of them?—Yes.

A wicket in the stanchions?—Yes.

Which window is that wicket in?—In the window of the pantry.

Is it the window of what is marked on the plan as the pantry?—Yes.

That window looks into the front?—Yes, into the front area.

Is that wicket large enough for a person to get in and out when open?—Quite large enough.

There is no door from the house into the area, I understand?—No.

[Mr. Gifford suggested that the jury might see the plans.

Lord Deas (to the Jury)—If there is any particular thing about the plans you want to see you may look at them; but according to the experience I have had, it is my opinion that the less you confuse yourselves with the plans the better.

At the request of one of the jurymen, plan No. 1 was handed over to the jury.]

61. Hugh M'Cairley, examined by Mr. Mure—I am quarter-master on board the steamer "Pladda," which plies between Glasgow and Waterford and Cork. In July last James H. M'Cairley

H. M'Cairley M'Lachlan was second mate on board that steamer. I have seen him just now in the witness-room.

Do you know him to be the husband of the prisoner?—I believe so, so far as I know.

When did the steamer leave Glasgow on the first week of July last?—On Thursday, 3rd July, at past meridian. It sailed for Waterford, touching at Greenock, which we reached about three or four o'clock. We sailed for Waterford about eight o'clock, and arrived at Waterford on Saturday morning, as far as I can recollect, about four in the morning. We left there that same Saturday afternoon for Cork, and left there on the following Tuesday and returned to Glasgow, which we reached, I think, on the following Thursday.

Was James M'Lachlan on board the steamer from the time it left Glasgow until it arrived at Cork?—He might have been ashore at Greenock, but he was at his work in the steamer every day. I saw him at Cork.

He slept on board the steamer?—So far as I know; he was there every morning.

Cross-examined by Mr. M'Lean—How long did the steamer lie at Glasgow after the Thursday when it arrived?—Till the following Saturday, when we sailed away on the same route as before. The owners of the steamer have an office in Oswald Street, Glasgow. M'Lachlan had 30s. a week as wages.

Mr. Mure—Did M'Lachlan go with the steamer on that Saturday?—No.

T. Railton 62. Thomas Railton, examined by Mr. Mure—I am clerk and cashier to Mr. Alex. Balderston, an accountant in Glasgow. Mr. Balderston is factor for the property at 182 Broomielaw. He began to manage that property in the month of March last. At that date the prisoner was a tenant in the property. She was then in arrears of rent. She was owing one quarter's rent, due at the term of Martinmas, 1861, amounting to about £3 5s. The rent was paid quarterly. There was another quarter due at the term of Candlemas, 1862, of the same amount; so that in March last she was in arrears £6 10s., and a quarter in prospective. At the term of May she was due another quarter. Mrs. M'Lachlan first made payment to me in the month of April of £1, which left due £5 10s. of the £6 10s.

When did she make the next payment?—I would require to refer to the cash book. (Cash book produced and referred to.) There was a payment made on the 25th May of £2 in cash, there being a guinea of deduction for taxes.

How much was in arrear in July?—Well, I should say about £5.

Lord Deas—Come nearer the time. How much was she in arrears on 4th July last?—I don't know.

Look at your book?—I see from it that she was in arrears on 4th July, £4 19s. T. Railton

Mr. Mure—And she gave you some money on 5th July?—Yes, £4 on the 5th July.

What hour was she at your office?—Between eleven and twelve o'clock.

Cross-examined by Mr. Clark—Are you quite sure it was betwixt eleven and twelve?—Yes.

Are you quite sure it was before twelve?—Yes.

You go to the Royal Bank on the Saturdays before twelve?—Yes.

Did you do so on that Saturday?—Yes.

Your office is at 7 West Nile Street?—Yes.

You know Lundie's pawn in Great Clyde Street?—I do.

How long would it take to walk from Great Clyde Street to your office?—Easily, I think, in fifteen minutes.

Great Clyde street is just at the Court here, is it not?—Yes.

And where is West Nile Street?—It runs south from the Cowcaddens, down through Mitchell Street to Argyle Street.

Mr. Mure—Did you ask her how she was so far in arrears?—I never asked her about the arrears at all, it was my clerk.

63. David Caldwell, clerk to Alexander Balderston, and residing in Cadogan Street, Glasgow, examined by Mr. Mure—The property at 182 Broomielaw is under my charge. Mrs. M'Lachlan was a tenant there. She was in arrears of rent, and had to be frequently urged for payment. D. Caldwell

Cross-examined by Mr. Clark—Was she threatened in any way?—No, not threatened.

Did you tell her that she had the whole of August to pay?—I referred to the fact that there was a prescribed time, within which I had to grant time to pay.

Lord Deas—Is that the fact, or is it a thing you told her?—I told her so.

Mr. Clark—And what was the date you mentioned to her?—I did not mention the time to her. I did not speak of August; I did not mention a date. I had no intention to take steps against her. I said to her that I did not wish to push matters to an extremity.

64. Alexander Baxter, joiner, Garscube Road, Glasgow, examined by Mr. Mure—In consequence of a request by the Fiscal, I went to No. 17 Sandyford Place, on the 10th of July last. I cut out a piece of the flooring of the bedroom downstairs. There were footprints upon the flooring. (Shown label No. 7.) That is the part of the floor I cut out. Captain M'Call and the police were present at the time. A. Baxter

G. Macleod

65. George Husband Baird Macleod, physician and surgeon, Woodside Crescent, Glasgow, examined by Mr. Gifford—I visited the house No. 17 Sandyford Place on the night of Monday, the 7th of July. That was my first visit.

Did you make an inspection of the premises and of a body which you found there?——

Lord Deas—Stop a minute. Did you (witness) go there by instructions?—I did.

Mr. Gifford—At what o'clock?—It was after eleven, on the evening of Monday, the 7th. I inspected the premises and looked at the body that night, and I returned next day. When I returned next day Mr. Fleming, surgeon of police, was along with me. I am not sure if he was present the night before also. Along with Mr. Fleming I made a post-mortem examination of the body. This was on the morning of Tuesday, the 8th of July. (Shown report No. 56.) This is my report, in which Dr. Fleming concurred. It is a true report.

Mr. Gifford—There are one or two statements in it on which I wish you to give me some information. You say, "The neck and chest appear to have been partially washed"?—Yes, sir.

Well, can you explain more minutely what that means?—Yes. The neck and chest had been apparently cleaned to a certain extent; still there was the appearance of blood round the circumference of the washed part, and it had not been entirely cleared of its bloody appearance. I cannot very well explain it in any other way than that.

What I want to know is, whether did water appear to be used, or did it appear as if it had been with a cloth?—My impression was that water had been used.

I wish to draw your attention to this statement in the report—"On further examination it became apparent that the body had been dragged from the kitchen (which lies to the back of the house), and where evidence of a severe struggle was obtained."

Lord Deas (to Mr. Gifford)—Are you asking the witness to explain that?

Mr. Gifford—Before I do so, I wish to ask whether this statement in the report means that the struggle took place in the kitchen?—Yes; in or about the kitchen.

And in what consists the evidence?—The evidence was that the kitchen floor had been partially washed. Upon the washed portion of the floor there were considerable stains, which I carefully examined by going down on my knees and getting the light to fall on the stains. It was quite apparent to me that those stains were the marks of blood. They were greasy, and had the reddish look of imperfectly effaced blood. Around the circumference of the part of the floor which had been washed

there were impressions on the floor, which I was then convinced, and am now convinced, had been footmarks—confused footmarks. If I might be allowed to explain exactly what I mean by footmarks, they were the marks of a sort of twist or turn of the heels on the floor, and the ball of a foot had also left its marks on the stones. There were upon the jawbox, upon the inside of the door, upon the door-post, on the rug or mat, upon an angle of the wall immediately outside of the kitchen door, upon the upper part of the door of the pantry press, close to the kitchen, in the passage between the kitchen and the room, and also on the corner of the wall at the foot of the stair, marks of blood. There was also blood on the lower step of the stair. G. Macleod

Lord Deas—On the lowest step?—There were some marks on the other steps too, but particularly on the lowest. This, in connection with some of the wounds found on the hands and wrists of the deceased, which, I believe, had been inflicted——

Lord Deas—Stop a moment. You say in the report that evidence of a severe struggle was obtained in the kitchen; it is therefore necessary that you confine yourself only to what you did see in the kitchen.

Mr. Gifford—It was upon these grounds you thought that a struggle had taken place in the kitchen? You are still of the opinion expressed in your report?—Distinctly.

Lord Deas—In that portion of your report?—Yes.

Mr. Gifford—You said something before in your evidence about this; you said, "This was confirmed by the nature of the wounds on the wrists"?—There were wounds upon the hands and wrists of the deceased which I thought could only be accounted for by the deceased having endeavoured to protect herself in a struggle with another person.

That tended to confirm your opinion?—Yes.

Your report refers to the different wounds which you found on the body; are all the mortal wounds specified in the report?—All. The report also specifies the material injuries.

Did you observe a contusion at the small of the back, at the lower part of the spine?—I examined the surface of the body with great care before opening it. I had also an opportunity of repeating the examination next day, and there was no such mark.

Did you take notes as you went along, and did you examine particularly all that you observed at the time?—I noted everything upon a piece of paper.

Did you observe in the bedroom of the deceased footprints on the floor?—I did, but not at the time.

When?—I think it was upon the day following, that is, the 9th, but I could not be positive of the day on which I first saw the marks upon the floor.

G. Macleod Your report was dated on the 8th?—Yes. I think it was the next day that I saw the footprints.

Did you advise that the footprints should be cut out?—I did. (Shown a piece of flooring, labelled No. 7.) That is the piece of flooring. I carefully compared those footprints with the foot of the deceased.

Taking into account the contour and size of the feet and everything?—Size and everything, and I found that the foot of the deceased did not correspond to the footprints on the floor.

In what respect?—In all respects. The feet of the deceased were longer, broader—larger in every way.

Lord Deas—Each foot?—Each foot, my lord.

Mr. Gifford—The footprints were all of a left foot. There were three in all, but only two were cut out. The third was not well marked. I examined the feet of old James Fleming, and compared his feet with the footprints. They were so perfectly different that I did not think it necessary to compare them minutely.

Is there any peculiarity about old James Fleming's feet?—Yes; his is a flat foot.

Lord Deas—In contradistinction to what?—To a high sole.

Mr. Gifford—Were you quite satisfied that his foot could not have made these footprints?—Yes.

Lord Deas—You are so still?—Yes.

Mr. Gifford—Can you say by what kind of a foot these footprints must have been made?—My impression when I saw them, and before any suspicion was attached to any person, was that the footprints were made by a female foot.

Is that your impression still?—Certainly.

Lord Deas—Is it an opinion or an impression?—It is my opinion now.

You have examined the footprints since?—Yes.

Your opinion is the same now as your impression was then?—Yes.

Mr. Gifford—Have you formed an opinion as to the general appearance of the female foot?—It was a well-formed female foot, with a high instep.

Have you examined the prisoner's feet?—I have.

Lord Deas—Carefully?—Carefully.

Mr. Gifford—Have you compared the prisoner's feet with the footprints on the flooring.

Mr. Clark—Stop a little. Please have the witness withdrawn.

[The witness was then withdrawn.]

Mr. Clark—I want to know, before this examination proceeds further, what it is intended to prove by the question which has just been put; what does Mr. Gifford mean by it?

Mr. Gifford—The question was put to see if the witness

had, from the examination, formed any opinion as to whether the footprints could have been made by the feet of the prisoner. G. Macleod

Mr. Clark—If that is all I have no objection to it.

[The witness was then brought back.]

Lord Deas—The question, Dr. Macleod, is, have you compared the prisoner's feet with the footprints on the floor of the house?—Yes.

And are the footprints on the floor such as might be made by the feet of the prisoner?—They are.

Do you mean by the prisoner's left foot?—The prisoner's left foot, my lord.

Cross-examined by Mr. Clark—There were some marks in the passage on the floor, from the kitchen to the bedroom?—Yes, there were.

Did these marks appear to be in the state in which they were after being made?—My impression was that they had been rubbed over.

What did you think the marks had been in the lobby?—There was a trail from the kitchen into the bedroom where the body was found, which I think had been caused by the body being dragged from the one room to the other. I was under the impression that the trail had been rubbed over; probably not washed, but rubbed over.

Lord Deas—Did the trail appear to have been rubbed over on the lobby?—Apparently.

Mr. Clark—Can you say whether it was with water or without it?—I cannot say.

It had been washed in the kitchen?—It had.

I forget, doctor, did you take the hour at which you reached the house?——

Lord Deas—We have that already. It was eleven o'clock.

Mr. Clark—Dr. Fleming had been there before you?—Yes.

Did you examine the prisoner's hand?—I did.

Did you observe whether or no there were any marks upon it?—Yes, there were some marks.

When was it that you examined her hand?—It was on the 14th July, or about that date.

Lord Deas—Were there any marks?—Yes; there were some marks upon the fingers of one hand, the left, which she said had been caused——

Do you object to that, Mr. Clark?

Mr. Clark—No, my lord, I have no objection.

Mr. Clark (to Witness)—I want to know what is your opinion as to what caused the marks?—Some of the marks were evidently caused by a bite or bites, and one of them was a cut.

I am speaking of those caused by bites; what kind of a bite, in your opinion, had caused them?—My impression was that the explanation she gave to me, that they had been caused by the bite of a dog, was correct.

G. Macleod Could it have been caused by the bite of a human mouth?—It was not at all similar to the bite of a human mouth.

Did you examine the teeth of the deceased?—I did.

Did they, in your opinion, correspond with the marks on the prisoner's hand—the bites?—The distance between the incisions on the hand were too narrow and the incisions too small for those of human teeth.

Mr. GIFFORD—Was the floor of the kitchen, when you examined it, damp or dry?—It was dry.

Lord DEAS—When did you first examine it?—On Tuesday morning.

Mr. GIFFORD—Did you observe it at all on Monday night?—I did not pay any attention to it particularly on Monday night.

Did you observe the passage the first night?—No, not particularly.

Was it dry when you examined it on Tuesday morning?—It was dry and glazed, as if it had been washed.

Lord DEAS—Are you not making some mistake. You said before that the passage was rubbed over, and not probably washed?—Yes; I then referred to the kitchen. The lobby was rubbed over, I think.

Lord DEAS—Are these footprints you speak of upon that board footprints of a naked foot?—Yes.

There is no doubt about that, I suppose?—I think not.

Besides, you are perfectly satisfied that old Mr. Fleming would not have made any of the marks?—His foot is longer and broader.

Much larger?—A good deal. It is longer and larger in every way, and very decidedly flatter than the prisoner's.

You said that they were made by the prisoner's left foot, and that the footprints and the foot corresponded in all respects, as far as you saw?—With great accuracy.

You said the deceased's foot was larger than the marks?—Yes, and I might add that there was a decided bunion on the left foot of the deceased, which would have left a mark.

Was there no corresponding mark on the floor?—No.

Was there any corresponding mark on either of the impressions?—No.

On neither of the three?—No.

Look at the impression on the board. I have to ask whether the fact of the impression being smaller than the deceased's foot may be accounted for by the impression being imperfect?—I think not, because the person by whom these impressions have been made has been leaning upon the foot and standing. In taking the measure of the foot of deceased, it could only be done by pressing paper against the foot, without there being the weight of the body upon it, and if the foot was so much larger without the pressure of the body, if pressed this way on

wood I would argue *á fortiori* that it would have been still greater. G. Macleod

Is there no defect in that impression as to the size of the foot from the whole of the impression not being left?—This footprint was cut out of part of the floor so close to the window that the person who left the impression must have been standing. It is not the impression of a person walking, which is a more imperfect impression than that made when standing.

You don't understand my meaning. May the foot that made the impression not have been longer than the impression now left?—Not very much.

Why?—Because it was clear when I examined it first.

Was it perfect at the toes and heels?—It was very perfect, considering all things.

Which of the injuries mentioned in your report would be necessarily fatal?—That under the right ear. The concussion produced upon the brain by the number of blows upon the skull would also most probably have been fatal. These were the particular injuries as bearing upon life.

Were there no wounds, the bleeding from which might have produced death?—It might have been—not necessarily.

Probably?—A great number of vessels must have been opened in these wounds.

Would bleeding from these wounds have produced death?—Certainly.

Not necessarily, if stopped in time?—The large vessels under the right ear were destroyed. It would hardly have been possible to have stopped the bleeding from these vessels.

What was the nature of the injury below the right ear?—The soft parts were completely reduced to a jelly, completely destroyed by repeated blows at that part. The blood vessels likewise were destroyed, the jaw bone broken, and part of the skull itself was destroyed.

(Shown cleaver No. 4.) Might the injuries under the right ear have been produced by that instrument?—All the injuries might have been produced by that instrument, including the injuries under the right ear.

Mr. Clark—By such an instrument?—Yes.

Lord Deas—Was there any cause of death discernible at the post-mortem, except the external injuries?—None.

Mr. Clark—Was it possible that death might have been caused by an instrument other than an edged instrument; the death or the wounds?—The death. The injuries were certainly produced by a heavy edged instrument, such as that which has been shown me.

Might the injuries, or any one of them, have been caused by another instrument than an edged instrument?—Certainly; none of the vital wounds could have been caused by a blunt instrument.

F. Penny 66. Frederick Penny, examined by Mr. Mure—I am Professor of Chemistry in the Andersonian University. On the 1st of August I received from Bernard M'Laughlin certain articles. There was no one with M'Laughlin. I received the articles attached to the label No. 24 (a flannel petticoat), the articles attached to label No. 1 (a shift, a semmet, and a woollen polka), the articles attached to label No. 21 (six pieces of wincey), and those attached to label No. 22 (twenty pieces of coburg cloth); also thirteen pieces of woollen cloth, labelled No. 20; a cleaver, labelled No. 4; and part of a crinoline, labelled No. 25.

You made an examination of all these articles, and drew out the report labelled No. 57?—Yes.

Will you read that report?

[Reads report No. 57.]

Andersonian University,
Glasgow, 11th August, 1862.

On the 1st instant Bernard M'Laughlin delivered to me, at the Andersonian University, the following articles of female wearing apparel, having labels duly attached:—1, a flannel petticoat; 2, a chemise, a worsted polka, and a flannel semmet; 3, a wincey petticoat; 4, a merino gown; 5, a flannel petticoat. On the same occasion he delivered to me a small cleaver, having a wooden handle, and on the following day he left with me a bundle of crinoline wires. In accordance with the request of William Hart, Esq., Procurator-fiscal for the Lower Ward of Lanarkshire, I have carefully analysed and microscopically examined the stains and clots on all these articles, for the purpose of ascertaining whether the said stains were caused by blood, and whether the blood could be identified as human blood.

Articles of Clothing.—On all the articles of wearing apparel dark red stains, resembling in appearance and in other physical characters those produced by blood, were easily distinguished. The chemise, the semmet, the flannel petticoat, and also the wincey petticoat, were very extensively stained, while on the merino gown only one large stain and a few small stains and a distinct clot could be recognised; and on the worsted polka only three small clotted stains were detected. The merino dress was in several pieces, and much torn. It presented the appearance at certain parts of having been washed with soda or some other chemical agent, as the fibre was extremely tender and rotten, and the colour sensibly changed. The lining of this dress was also in a rotten state at certain parts, and its colour there almost entirely discharged. In subjecting the stains on the several articles to chemical examination, the same mode of proceeding was adopted in each case, and precisely similar results were uniformly obtained. A portion of the stained fibre, as fabric, was digested for some time in cold distilled water. A

red liquid, having the appearance of a solution of the red colouring matter of blood, was soon produced. When this red liquid was cautiously heated the colour was destroyed, and an abundant flocculent coagulum separated. This coagulum was nearly soluble in caustic potash. The colour of the red liquid was not appreciably changed by the addition of dilute ammonia, and it was not affected by a solution of ferrocyanide of potassium. On evaporating a portion of the red liquid to dryness, and carefully incinerating the dry residue, the peculiar odour of burnt blood was distinctly perceptible. All these effects are highly characteristic of blood, and they afford unequivocal evidence of the presence of the colouring matter of that animal fluid in the red stains on the several articles of clothing before enumerated. In the clotted stains from the same articles distinct traces of fibrine, another constituent of blood, were detected. With the view of examining the stains microscopically, a small portion of the clotted fibre of each article was treated in the usual manner with glycerine, and then placed under the microscope. In every case the circular and disc-like corpuscles of mammalian blood were distinctly seen, leaving no doubt that the stains referred to were caused by blood. It was found, however, impossible to identify the blood as human blood, the stains and clots being dry and hard. The size and shape of the corpuscles corresponded with those of human blood, and were quite consistent with such blood. F. Penny

The Crinoline Wires.—The cotton covering on the crinoline wires was deeply stained at several places with a dark red-clotted matter analogous to dry blood. Several portions of the stained covering were removed from the steel wire and examined, both chemically and microscopically, in the manner before described. The results were conclusive in showing that the said stains consisted exclusively of blood, but the kind of blood could not be determined. The presence of fibrine was also detected.

Cleaver.—The blade of the cleaver was extensively rusted on both sides, but no stains of blood were detected on its surface. On the handle, however, distinct dark red stains, similar to those of blood, were visible round the lower edge of the ferrule, and very marked red clots were recognised between the top of the ferrule and the blade. Portions of these stains and clots were cut away and carefuly examined, according to the methods before described. The results were highly satisfactory, leaving no doubt that the said stains were caused by blood, but the dried condition of the stains rendered it impossible to determine with certainty whether they were produced by human blood.

Conclusions.—Having deliberately considered the various

F. Penny

experiments and results comprised in this investigation, I am clearly of opinion that they warrant the following conclusions:—

1. That the stains and clots on the several articles of wearing apparel subjected to examination were caused by blood.

2. That the stains on the crinoline wires consisted of dried blood.

3. That the stains and clots on the handle of the cleaver were caused by blood.

4. That in no case was it possible to identify the blood as human blood.

All this I certify on soul and conscience.

FREDERICK PENNY,
Professor of Chemistry.

On the 17th instant I delivered to Bernard M'Laughlin all the articles enumerated in the above report.

FREDERICK PENNY.

11th August, 1862.

Mr. MURE—The articles shown you are those referred to in that report?—Yes.

And they bear your signature?—Yes.

Lord DEAS—There is an expression in that report which I understand quite, but which it would be as well, doctor, to explain to the jury. The report bears that the blood upon these articles is mammalian blood. Tell the jury what that means.

Dr. PENNY—By mammalian blood we understand the blood of those animals which suckle their young. It is known by the roundness of its corpuscles, just as the blood of birds, fishes, and reptiles is known by its corpuscles being oval, and having a nucleus in the centre. By this difference we are enabled to distinguish the blood of certain creatures from the blood of others.

Lord DEAS—Human blood is included under the term mammalian blood?—It is.

B. M'Laughlin

67. BERNARD M'LAUGHLIN, examined by Mr. MURE—On the 1st of August he handed over to Professor Penny all the different articles which the preceding witness said he had received from the present witness, viz., the articles labelled Nos. 24, 21, 22, and 4. The crinoline was handed to Professor Penny on the 2nd August. The other articles were handed to him the day before.

[The declarations of the pannel libelled on were then about to be read, when

Evidence for Prosecution.

Mr. CLARK immediately rose and said—I wish to ask your lordship's opinion upon the admissibility of the declarations, which I argue are inadmissible. I will found my objection to the admissibility of these declarations on the decision given by the Lord Justice-Clerk in the case of *Agnes Kelly*, 28th April, 1843.[1] The circumstances in which the declarations of the present case have been taken are these—In the first place, a petition is made and directed against the prisoner and her husband, charging them both with the commission of the present offence, and the charge is made against the husband at a time when, as the Procurator-fiscal told you, he had no reason to doubt that the prisoner's husband had been absent from Friday, the 4th July, till late the following week. The declaration was also taken before the magistrate, who can tell you whether, when the declaration was taken, he was aware of the fact to which I now allude. But certain it is that the Procurator-fiscal, who made that charge against the husband and wife jointly, states that he had no reason to doubt that the prisoner's husband had been out of Glasgow, and that he could not have committed the offence. And the magistrate cannot tell whether, when the husband was examined, he was aware of the fact or not. The prisoner's husband is then examined, and the examination, according to the statement of the Sheriff, lasted for about an hour. Then follows the examination of the prisoner herself, which occupies a period of from three to four hours, and consists, as Mr. Strathern told you, in a series of questions being put by the Procurator-fiscal to the prisoner, which questions the prisoner answered, and which answers were put down in writing. The result is, that after these questions are put to this unhappy prisoner, and when she is under examination by the Procurator-fiscal for a period of at least four and a half hours, a declaration is taken from her extending to the great length of twenty-four pages. That declaration is taken upon the 14th July, 1862. One would have thought that would have been sufficient to serve the purpose of what is known in our law as a declaration. But upon the 16th of July she is again examined, and, after the preceding declaration has been read over to her, and she has given some slight explanations in reference to it, she is again examined for a long period, and the result is that a declaration extending to twelve written pages is taken from her. And she is examined about certain articles which are not shown to her at once, but which are put before her after the examination had commenced and concluded in reference to that matter. And then after that declaration has been emitted another declaration is taken from

Mr. Clark

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1 *Agnes Kelly*, Ayr, April 28, Broun, vol. i. p. 543.—Ed.

Mr. Clark her upon the 21st July, 1862, being the third declaration, which, however, is shorter than the two preceding ones, for it extends to only two and a half written pages. But there you have that series of declarations (three in number), extending to the enormous length to which I have referred. But she was not allowed to make her simple statement; for she was catechised like a witness by the Procurator-fiscal, after he had found the means for the catechising by making a charge against the prisoner's husband, and first examined him at a time when he had no reason to doubt that he (the prisoner's husband) could not have been a party to the crime. I refer to the case of *Agnes Kelly* for the purpose of showing your lordship that the declarations which were taken are not declarations which the law of Scotland recognises as evidence which can be used fairly, properly, or justly against the prisoner, and that the declarations which the prisoner emitted after a catechising, extending for such a length of time, and conducted in such a manner, were, I have no doubt, supplied by the previous examination which had been made of her husband, who could not have been precognosced as a witness, nor examined in this Court. My lord, in the case of *Agnes Kelly* (which was a case of wilful fire-raising on the farm of High Dargoals or Cairntop, in the parish of Old Luce), it appeared that the declarations on being examined by the Court turned out to be of an unusual length, one of them extending to twenty-three pages of the copy handed to the judge, and they all consisted of long and skilful questions upon a great variety of details applicable to evidence in the case, and most minute inquiries into the movements of the pannel for a considerable time prior to the date of the offence. It also appeared that in regard to the second and third declarations in particular, inquiries had been made in the interval about the matter regarding which she had been first examined, and a new series of questions were put upon the additional evidence so obtained. She had also been sent out to the country and desired to point out the places mentioned in her former declarations as if she had been a witness, and had then been examined upon the matter so obtained from her. Some further questions were put by the Court to the Procurator-fiscal as to the manner in which the declarations were taken, which seemed even more strongly to give the whole proceedings the character of the close and searching examination of a witness. The late Lord Justice-Clerk, than whom I am sure no greater criminal lawyer ever sat upon the bench, said of the procedure, that "the matter was to his mind most unsatisfactory. That he considered the extent to which the pannel had been examined was a very great abuse of the objects for which a party accused was brought before a magistrate for a declaration; and that it was pretty

plain that the second and third declarations (the last in particular, after such a long interval) had been taken, not for the purpose of allowing the party to give any explanation which might be material, but with the direct object of skilfully rearing up evidence against her by questions founded upon inquiries obtained in the interval, and by leading her at a great distance of time into answers upon matters which she, if innocent, might think quite immaterial, and upon which the Procurator-fiscal had obtained information between the examinations; that he saw little difference between such a system and the practice in France, of subjecting parties accused to an examination upon every point in the whole case, except that in the latter it was done in public, and with great securities; that there was no equality between a Procurator-fiscal, with all the alarm of imprisonment and the authority of a magistrate, and the terrors of an accusation to back him, and a poor countrywoman of fifty-five years of age, a common farm servant, uneducated and illiterate, if such an encounter of wits was to be permitted; that he thought the whole purposes and objects of taking a declaration from the accused had been overlooked." My lord, I do not think that the Lord Justice-Clerk in uttering these words could have uttered words more applicable in every point to the case which you now have before you. The peculiar purpose of the declaration has in this case been overlooked, and that keen encounter of wits to which he alludes, and that authority of the magistrate, and the terrors of the accusation to back that encounter have been used in this case, so that the declarations do not serve their proper purpose as declarations, but have been used merely as instruments by which statements have been obtained from the prisoner which should not have been obtained from her, or used as evidence against her in this country. **Mr. Clark**

Lord Deas—So far as I can follow the eloquent speech which has just now been made, it rests upon three grounds. In the first place, that the husband of the prisoner had been examined before her declaration was taken, and at a time when the Sheriff or Fiscal, one or both of them, had reason to believe that he was not in town at the time of the offence, and that the declaration was taken as a precognition. Secondly, that the declaration proceeded to a considerable extent upon questions put to the prisoner; and thirdly, upon the length of the declarations. If there is any other grounds involved in the speech of my friend, Mr. Clark, I should be glad to be informed of them. **Lord Deas**

Mr. Clark—The objections were to a certain extent based upon questions put about objects which were in possession of the Fiscal at the time, but which were not then exhibited to the prisoner.

Lord Deas

Lord DEAS—Then there is a fourth reason, that certain questions in regard to certain articles were put before the articles were shown to the prisoner. These objections I can only dispose of upon the evidence before me, that which has been recorded in the cross-examination of the Sheriff-Substitute, Mr. Strathern, and the Fiscal, Mr. Gemmel.

Mr. CLARK—The declarations themselves?

Lord DEAS—The evidence, I say, consists of the cross-examination of these two gentlemen, for Mr. Hart was not asked any questions in regard to this point. Now, looking to that evidence, and taking all the declarations, I can find no ground for holding that when the prisoner's husband was examined, and his declaration was taken, he was known to be innocent, and that his declaration was taken from him as a precognition. Both the one gentleman and the other swore expressly that they did not know at that time of his being absent from town. There had been some statements about his being absent, but they were not satisfied that he had been, or that he was in a position in which he could not be implicated. They (Sheriff Strathern and Mr. Gemmel) have sworn that distinctly, and we have no other evidence upon the point.

Mr. CLARK—My lord, the Procurator——

Lord DEAS—Will you wait till I have done?

Mr. CLARK—The Procurator-fiscal said he had no reason to doubt——

Lord DEAS—The cross-examination of the Fiscal upon that point was recorded at the time it took place. I will read it: "It was not known at the time the husband's declaration was taken that he had been out of town on the morning of the 4th July. The husband was liberated immediately on his being examined, and inquiries were being made, proving that he had been out of town. I believe between the time of the husband's declaration being emitted and his liberation I got additional information from some of the criminal officers, who had in the interval made inquiries into his being absent from town on the morning of the 4th July." And on being asked, "Had you any reason to doubt that he was out of town?" the reply was, "I did not know that it was true. I was not satisfied that it was true. It was after the examination that I received the answer which was made by the officer who had inquired as to when the ship left." That is the evidence, and it certainly does not import that the Fiscal knew that the man was out of town in the ship at the time that the murder was committed. I cannot see that it was wrong on the part of the authorities to apprehend the prisoner's husband. If it had turned out that he had had anything to do with this crime, and I have no doubt that had he not been absent suspicion would have attached to him, great blame would have been attached to the authorities if they had not taken him into

custody. It is impossible for me to hold that they did wrong in taking the declaration of the prisoner, which they were, indeed, bound by their duty to do. The second ground is that there are a great many questions which were put in the course of the declaration; that is nothing more than what is done in every declaration that is taken; the length of the declaration must depend, in every case, on the nature of the case, and in this case it was quite right that the prisoner should have the fullest opportunity of explaining everything that she could explain, and I think we will find that a great deal of it consists of explanations which I rather take it my friend Mr. Clark will not willingly throw aside when he comes to address us. His fourth ground of objection is that questions were put about certain articles before these were shown to the prisoner. Now the Sheriff says that she was shown articles in the course of her examination; that there were some preliminary questions asked her before the articles were produced, but these did not occupy above two minutes. That is the Sheriff's evidence about the matter, and I do not think that, in my recollection, there was anything different in Mr. Gemmel's evidence. In these circumstances I cannot, with every desire to refuse evidence that is incompetent against the prisoner, see that there is any incompetency in reading these declarations as part of the case. The question now before me is whether I shall or shall not allow these declarations to be read; I cannot see any ground whatever in point of law for refusing to allow them to be read. Gentlemen of the jury, you will now hear the declarations read.] Lord Deas

The declarations of the pannel libelled on were then read, which closed the proof for the Crown.

Declarations of the Prisoner.

First Declaration.

At Glasgow, the 14th day of July, 1862, in presence of Alexander Strathern, Esq., Sheriff-Substitute of Lanarkshire,

Compeared a prisoner, who, being judicially admonished and examined, declares and says—My name is Jessie M'Intosh or M'Lachlan; I am a native of Inverness, twenty-eight years of age, wife of James M'Lachlan, second mate on board the steamship "Pladda," and I reside at No. 182 Broomielaw, Glasgow. I knew Jessie M'Pherson, who was a servant to Mr. Fleming, Sandyford Place, Sauchiehall Street. I was a fellow-servant of hers in Mr. Fleming's employment in his house at Sandyford Place, and at his coast house, near Dunoon, for two years prior to September, 1857. I left Mr. Fleming's

service then and got married, and since then I have kept up an intimacy with her, except for a period of about eighteen months prior to January, 1861, during which time she was at service in Manchester. I last saw Jessie M'Pherson in my own house at the Broomielaw, on Saturday evening, the 28th June last. I had also seen her the previous night at Mr. Fleming's house at Sandyford Place, and I went there about ten o'clock. I rang the front door bell, but Jessie M'Pherson happened at the time to be in the dining-room, and she told me to go round to the lane behind the house and she would let me in by the back door. I went round and found the back door open, and Jessie M'Pherson speaking there to a servant in the adjoining house, No. 16 Sandyford Place. M'Pherson and I left this girl in the lane and went inside the back door; we conversed there about M'Pherson going to New Zealand, which she had previously told me she intended to do. That night I went by appointment to see her on this subject; M'Pherson asked me to get a schedule from an emigration society in Jamaica Street that it might be filled up for her. I did not get the schedule when I applied for it, and it was to see if I had got it that M'Pherson came to my house, the last time I saw her on said Saturday night. I was not in or near Mr. Fleming's house on the evening of Friday the 4th, or morning of Saturday the 5th of the current month of July, and did not see Jessie M'Pherson that night or morning, and I was in no way concerned in assaulting or murdering her, nor was I concerned in stealing any silver plate from M'Pherson's house on said night or morning. On said Friday the 4th July I was in my house the whole day till about seven o'clock at night, when I went to see Mr. M'Farlane, who had been factor for my house prior to Whitsunday, and whose place of business was at 112 West George Street, but he was not within, whereupon I returned home. I was not again out of my house till after ten o'clock, when I went out to convoy home a Mrs. Fraser, a seaman's wife, who lives in Grace Street, Anderston. I walked with her as far as the Gushet House in Anderston, where I parted from her. I intended to go to the house of James M'Gregor, a foreman clothier, who lives in Main Street, Anderston, and who is a friend of my husband's, but I changed my mind and returned home by way of Argyle Street, James Watt Street, and Broomielaw. I reached home about a quarter past eleven o'clock; I let myself in by means of a check lock key, and which is in the house; this key I carried myself, and always let myself in by means of it; it is one of the keys of the press in the lobby of my house, and for which press there are two keys. On going upstairs I found John M'Donald, a young man who lodged with Mrs. Campbell, who occupied a part of my house. He was going upstairs before me, and went

into the house along with me; he did not remain in the house above a minute, and then went out again. I went straight to bed without speaking to Mrs. Campbell, but in about half an hour I heard the door bell ring, and Mrs. Campbell opened the door, and I heard from the voice that it was M'Donald returning. I remained in bed till between seven and eight o'clock on Saturday morning, without ever having been up or out of the house. My son, a child of three years of age, slept in bed with me. When I rose I dressed, and went out without breakfast, leaving my child in bed. I went for coals to the house of an old woman in West College Street. I brought back the coals in a large basket, covered with a piece of old carpet, which I had taken out with me; I was not absent above a quarter of an hour. Mrs. Campbell was not up and out of bed when I went out, but she was out of bed when I returned, because I rang the bell and she let me in. I had forgotten to take the check key with me. Mrs. Campbell had taken my child out of bed and dressed him while I was absent. I lighted my fire and made breakfast for myself and child. I remained in the house till about twelve o'clock on said Saturday, when I went out and went to the pawn office of Mr. Lundie in East Clyde Street. I went there to pawn silver plate which I had received from Mr. James Fleming, the father of Mr. Fleming, my late master, on the previous evening, in my house. He came to my house about a quarter-past eight that evening, and I let him in, and took him into our parlour. He carried a parcel wrapped tightly up in white cloth, and laid it down on the table; he asked me if I would go a message for him, and he would pay me well for it. I asked him what it was, and he said he wanted me to pawn some silver plate which was in the parcel. I said the pawnbroker would know the plate did not belong to me. He said I was to say it was rent I had to pay. I asked what name I would give as a pledger, and if I would give Mr. Fleming's name, and he said no, not to put down Mr. Fleming's name, as it would be in the directory. I then said, "What name will I give?" and he said I was to give the name of Mary M'Kay or M'Donald, No. 5 or No. 35 St. Vincent Street, and that I was to seek £3 10s. upon the plate, or as much more as I could get. Fleming said that he was short of money, and had to go to the Highlands, and did not like to lift money out of the bank. I agreed to pawn the plate, and Fleming said he would come and see me next afternoon, and then he left the house. There was no one with Fleming and me in the parlour, and I do not know that any one saw him in the house; but Mrs. Campbell was in at the time he was there. I went, as I have already said, to Lundie's pawn office, and it was then between twelve and one o'clock on the Saturday. I laid down the parcel, rolled up, as old Mr.

Fleming had given it to me. The pawnbroker's young man who attended me opened down the parcel, and then it was I saw, for the first time, what the parcel contained. The young man asked me what I wanted on the articles, and I said £3 10s., and he said he would give me a little more than that, and I said I would take as much as he could give me, as the articles would not lie long in pawn. He said he would give me £6 10s. or £6 15s., I forget which. I told the young man that the money was wanted to pay rent, but I did not say who sent me. I gave as the pledger's name Mary M'Kay or M'Donald, as old Fleming had told me. I got the money and a pawn ticket, and left the silver plate in the same cover which old Fleming had brought the articles in. I saw, when the parcel was opened down by the pawnbroker, that the articles consisted of a soup divider, a fish slice, some table spoons and forks, and toddy ladles. I knew the silver articles when I was a servant in the house, and I saw them sufficiently well in the pawnbroker's hands to know them again. I am shown and identify the several articles which I pledged, and the several sealed labels attached ther to and docquetted and subscribed as relative hereto. I also see and identify the piece of cloth in which the silver plate was wrapped when handed me by Fleming, and pawned as aforesaid, and the sealed label thereto attached is also docquetted and subscribed as relative hereto. I returned straight home from the pawn office with the money and ticket, and reached home about a quarter past one. I remained in the house, and at about a quarter to three old Fleming came there. I was at the moment cleaning the brasses of the door, and he and I turned into the parlour. He then asked me if I had got his message, and I told him I had got more than he thought, and then gave him the whole money I had got, together with the pawn ticket. He thereupon offered me £5 for having done the message, and not to mention it to any person. I told him that £5 was too much for me, and I took £4 from him. This money was in £1 bank notes, and part of what the pawnbroker gave me. Fleming repeated that I was to tell no one of what I had done for him in case it would come to his son's ears, and that a pound or two would do him when he was away in the Highlands. On this Fleming left the house. I had promised Mr. Caldwell, the present factor of my house, £4 on Friday, the previous day, and so, on getting the £4 from Fleming, I went and paid the whole of it to Caldwell about four o'clock on Saturday. I am shown a man who calls himself James Fleming, and I declare and identify that man as the person who gave me said silver plate to pawn on said Friday, and to whom I gave the money and pawn ticket on the Saturday. I had money of my own wherewith to pay the factor on the Friday, independent of the £4

which I got from Fleming on Saturday. I had £5 10s. of my own in the house, which was a balance of £11 10s. which I got from my brother in the end of May last. My brother's name is John M'Intosh. He was a seaman on board the steamship "St. George," which plied between Glasgow and Quebec, and he gave me £5 on returning from Quebec in the end of May. In the preceding month of April he gave me £6 10s. on the occasion of a return voyage from New York of the "United Kingdom" steamship, on board of which he served. On Friday night, the 4th July, when I went to convoy Mrs. Fraser, I was dressed in a brown merino dress with three flounces, a large light grey cloth cloak, and a brown velvet bonnet. On Saturday, the 5th July, I took the grey cloak to Mr. Murray, the dyer's shop in Argyle Street, situated between Jamaica Street and Oswald Street, that it might be cleaned, where, at the same time, I left the brown merino dress to be dyed black. I gave my own name, Mrs. M'Lachlan, to Mr. Murray, as the owner. I took the velvet off the frame of the said bonnet because it was old, and I gave it to a salt and whiting girl at the door of my house on Tuesday last. I had a brown merino dress without flounces, but I gave the skirt of it to Mary Black or Adams, a washerwoman, last summer. I did not open down the brown merino dress left to be dyed. The washerwoman just mentioned has been in the habit of washing for me about three years past. She did not call for me at my house in the afternoon or evening of Friday, 4th July current, and I did not see her that afternoon or evening. I did not ask Mary Black or Adams to come to my house and take charge of my son James while I went and saw the late Jessie M'Pherson on said Friday night. Mary Black or Adams stays with Mrs. Rainny in Holm Street. I called once there on Saturday, the 5th July. I did not call twice. I wanted Black or Adams to go a message, but she was not in, and Mrs. Rainny said she would go the message. The message was to redeem from a pawnbroker a black and blue check poplin dress, and which I now have on as under dress, and Mrs. Rainny relieved and brought me the dress. I wore the brown dress at this time, not having then sent it to the dyeing. I left word for Mary Black or Adams to be sent to my house that Saturday afternoon, and she came. I gave her two £1 notes to redeem other articles from the pawn. On the Monday following I gave her 11s. to redeem some other articles which were pledged. I gave her no more money. I had two crinolines on Friday and Saturday, the 4th and 5th July. I have now only one, the other having been burnt by accident on Saturday, 5th July. The wires of that crinoline I gave to Mary Black or Adams. I purchased a new black straw bonnet on Wednesday last, the 9th current, in a milliner's shop in Argyle Street, between

Douglas Street and Mains Street. I now see and identify the said bonnet, which is in the same state as I purchased it. I paid 4s. 9d. for it. Mary Black or Adams has a young daughter named Sarah. I sent her with a box to the Hamilton railway on Saturday, the 5th July. I addressed it with the name, "Mrs. Bain, Hamilton. To lie till called for." The box was empty. I intended to go up to Hamilton on said Saturday, and stay for a day or two with a Mrs. Shaw there, but who I, through mistake, understood was called Mrs. Bain. I did not go on Saturday, but went on Tuesday last, and called at Mrs. Shaw's house, and found she was not within. I got said box at the Hamilton station on said day, and returned home with it, reaching Glasgow about six o'clock on Tuesday night. The box is now in the house. It is a leather box with a glazed cover. I meant the empty box to lie at the Glasgow station till I went myself to Hamilton, but through some mistake of the little girl Adams it had been sent on to Hamilton. I meant to have put my clothes in the box at the station, because the little girl could not carry the box and clothes together. I carried my clothes across to the Glasgow station of the railway in a black leather bag, and which I took to Hamilton when I found the box had been sent forward. I am shown and identify as my property two sheets, to which a sealed label is attached, and which is docquetted and subscribed as relative hereto. My attention is called to the mark or impression of a key appearing on one of said sheets. I declare that the impression was made upwards of a twelvemonth ago, and while I resided in a house in Stobcross Street. The impression is of the check key of the outer door of that house, and was made by my child making water on it as it lay on the sheet, which left an impression of the key in iron mould on the sheet. My sister, Ann M'Intosh, who now resides at Garnethill, in Edinburgh, knew of said occurrence. Munro, in Union Street, was factor of said house in Stobcross Street. I brought the empty box which went to Hamilton down stairs from my house on said Saturday, to my cellar door, at the foot of the stair, intending to send a boy with it to the railway station, but, just at that moment the girl Adams came into the close, and I put on the address, and tied the box with a piece of cord, and gave it then to the girl. The box was not in said cellar that day. Mrs. Shaw's husband is cutter to a tailor in Hamilton, and lives, as I think, in Castle Street there. I am shown and identify as my property a chemise and flannel petticoat, both of which I was wearing when I was taken into custody yesterday, and the sealed label thereto attached is docquetted and subscribed as relative hereto. I put on said chemise and petticoat on the evening of Thursday, the 3rd July. I had two chemises, but one of which I have since put on; that now

shown me I have torn up, having been destroyed by my child. I had no flannel petticoat except that now shown me. I washed it on Wednesday, the day before I put it on. All which I declare to be truth.

JESSIE M'LACHLAN.

Declares further—I was indebted to the late Jessie M'Pherson in the sum of £1 5s. for grocery goods, which I got from her when she kept a shop in Grace Street about two years ago. This sum I did not pay, because M'Pherson told me that she meant to have made a present to my child at its birth, and that I was to retain the money and expend it for the child. And this I also declare to be truth.

JESSIE M'LACHLAN.
ALEX. STRATHERN.

Declares further—On being shown a black shawl or plaid, to which a sealed label is attached, and which is docquetted and subscribed as relative hereto—that shawl or plaid is not my property, and I never had it in my possession, and I did not leave it at Murray's (the dyer), before mentioned, to be dipped in black dye, on Monday last, the 7th July current, nor did I send it. Being also shown a grey cloth cloak, in two pieces—I declare that is the cloak which I wore on Friday and Saturday, the 4th and 5th July current, and which has now been cleaned, but it was not in pieces when I gave it to be cleaned. I am shown the body and skirt of a dress new dyed black, and to which a sealed label is attached, which is docquetted and subscribed as relative hereto. I declare that is the brown dress which I wore on said Friday and Saturday last, now dyed black, and which, as shown me, wants the flounces. I did not give the name of M'Donald to Murray (the dyer) as owner of said cloth cloak and brown dress. I gave my own name, M'Lachlan. I got from the dyer a ticket on leaving said articles, which, I suppose, is now somewhere about the house. I dyed said dress black to get further use out of it, as, in its brown state, it was a good deal soiled and the colour faded. And this I also declare to be truth.

JESSIE M'LACHLAN.
ALEX. STRATHERN.

This declaration, written upon this and the twenty-three preceding pages, by Peter Morton, clerk in the Sheriff-clerk's Office in Glasgow, was freely and voluntarily emitted by the therein designed Jessie M'Intosh or M'Lachlan while in her sound and sober senses, and was adhered to by her, on being read over to her, and was subscribed by her and the said

Sheriff-Substitute before these witnesses—John Gemmel, writer in Glasgow; the said Peter Morton, and Bernard M'Laughlin, sheriff-officer in Glasgow.

Jno. Gemmel.
P. Morton.
Bernard M'Laughlin.

Second Declaration.

At Glasgow, the 16th day of July, 1862, in presence of Alexr. Strathern, Esq., Sheriff-Substitute of Lanarkshire,

Compeared, Jessie M'Intosh or M'Lachlan, presently prisoner in the Prison of Glasgow, and the previous declaration emitted by her in presence of said Sheriff-Substitute, on the 14th July curt., having been read over to her, and she being again judicially admonished and examined, declares and says—I adhere to said declaration as being correct, with this exception and explanation, that on reaching Hamilton on Tuesday, the 8th July current, I went into a small shop near the railway station, there to inquire for Mrs. Bain, and when there I inquired at a woman in the shop if she would make me some tea, and she agreed, and prepared tea and ham and eggs for me. I then asked said woman if she could get a boy for me to carry a small box which I had at the railway station, and she got a boy, and I took him to the station, and then asked for the box, which I got and signed a receipt for, signing my own name, "Mrs. M'Lachlan." On getting the box I found that the hinges were broken, which must have been done in the passage up to Hamilton, for it was entire when I sent it away. The boy carried the box up stairs from the station to the roadside, and there I untied the cord which was still round the box, and opened it, and put the clothes which were in the black bag inside the box, and then the boy carried the box and its contents to the shop where I had ordered tea. I waited some time till tea was ready. During that time I took the bag out of the box, and the articles of dress out of the bag, because it was rather small, and tied them in a handkerchief. I then inquired at the woman in the shop where I could get the box mended, and she recommended me to send it to a joiner, but I told her it was of leather and would require to be mended by a saddler. The woman, therefore, sent the boy along with me, he carrying the box and I carrying the clothes in the handkerchief, and so we walked into Hamilton. I asked for Mrs. Bain, as the name of my acquaintance, because she had been recently married, and I thought that was the name of her husband,

and that he was cutter to a tailor, but the woman in the shop told me that she knew no tailor of the name of Bain, and mentioned the name of Shaw as that of the tailor's cutter that she knew, and I resolved to go and see the person in case it might be my friend, and the boy was to show me the road, which he did, and I left the boy to go to the saddler's. I went to Shaw's house, but found the door locked; this was between the hours of four and five o'clock in the afternoon. I left Glasgow on said Tuesday by the train about one or two o'clock to Hamilton. I told the boy to direct the saddler to send the box to his mother's shop, where I had got tea, and that I would be up in the beginning of the following week to look for a room in Hamilton, which I wished to occupy for my own and child's health, and get the box.

The bundle before referred to contained some shirts of my husband's, some baby's clothes, and the checked poplin dress referred to in my previous declaration, and these I brought home with me, tied up in the same handkerchief and black bag in which I had taken them up, and the handkerchief I have round my neck, and now give up, is that in which I tied the clothes, and a sealed label is attached thereto, which is docquetted and subscribed as relative hereto. And being further examined, declares—I did not give away a handkerchief to a boy in Hamilton on said Tuesday. I had two crinolines, as I formerly mentioned, one of which was burned. I wore both of these at the same time on Friday, the 4th July. The flannel petticoat which I wore when apprehended I have had for four years past. It was seldom washed by any one but myself, because it was the only flannel petticoat I had. It having been washed at the top and bottom, I hemmed it afresh about a fortnight ago. The shift which I wore when I was apprehended I have had for six months past. I got it from my sister Ann, who is now in Edinburgh. The coals which I got on Saturday morning, the 5th July, were sold me by a woman, the wife, as I understand, of the person who keeps the coal depôt. I bought a quarter of a hundredweight, and paid, I think, three-halfpence farthing. I borrowed a pair of stockings from Mrs. Campbell, who occupies part of my house, about two months ago, but I had them on only one day, being that day on which I borrowed them. I put these stockings afterwards by mistake among my husband's stockings; and I suppose they will either be in the house or in the boat in which my husband is employed. I had a pair of old boots, the only pair which I had for wearing, and these I threw into the ashpit, along with some other rubbish, on Friday, the 4th July current, on the occasion of cleaning out my room. I purchased the same day a pair of new boots, which I now see and identify, and a sealed label attached

thereto is docquetted and subscribed as relative hereto. On that evening when Mrs. Fraser came to my house I took a bottle out of Mrs. Campbell's press, and went with it to the public-house of a person named Monteith, in Argyle Street, between Brown Street and James Watt Street, and wanted put into it a gill and a half of whisky, but, as the bottle was too small, one of the shopmen gave me a pint bottle to contain the whisky, and I left Mrs. Campbell's bottle instead. The pint bottle was in our house when I was apprehended.

I know that the late Jessie M'Pherson had a black watered silk dress. She had another dress of silk, of a changing colour, with flounces, but with cotton cloth beneath. She had also a velvet cloak, the front of which was lined with blue silk; as also a drab cloth cloak. She had also a black dyed harness plaid. I do not know if she had a black silk polka, but she told me she had one. The other articles of dress I have seen. I have not seen any of these articles of dress lately, either in her possession or anywhere else.

Being shown two silk dresses having a sealed label attached, as also two cloaks having a sealed label attached, as also a black dyed plaid having a sealed label attached, as also a piece of twilled cotton cloth having a sealed label attached, I declare the said dresses, cloaks, and plaid to be Jessie M'Pherson's, and are the same that I have before mentioned. I do not know the twilled cloth. I am shown a japanned tin box with sealed label attached. I declare that box is mine. I despatched to Ayr either on Tuesday or Wednesday, the 8th or 9th of this month, the said tin box containing the said dresses, cloaks, and plaid wrapped in the said cotton cloth by the Ayr railway from Glasgow, and addressed to "Mrs. Darnley, Ayr. To lie till called for." On Friday, the 4th July, the late Jessie M'Pherson sent down said dresses, cloaks, and plaid to my house by a little girl whose name I do not know, but who was accustomed to clean knives for her. Along with these things there was a message that I was to take the watered silk dress to Anderson, in Buchanan Street, to get dressed. The changing-coloured silk dress was to be opened down and left with Anderson to be dyed brown. The cloth cloak was to be dyed black, because M'Pherson had spoiled it in the washing. The black velvet cloak was to have a puffing of silk round the bottom to lengthen it, and which puffing M'Pherson was afterwards to send down to me. The black plaid was to be re-dyed because it was not well done. The articles were sent to me by said girl about five o'clock on the afternoon of said Friday, wrapped up in the said twilled cotton cloth. I intended to have taken them to Anderson on Saturday, but was not very well, and unable to go to Buchanan Street. I was not out on Monday, and

on Tuesday I could not take the articles, having charge of my child. I heard of the murder on Tuesday night, and next day I heard that some of Jessie M'Pherson's clothes were awanting, and, having them in my possession, I got frightened, and sent them off to Ayr, as before mentioned. I addressed the articles to Mrs. Darnley, because I knew her and could speak to her on the subject, and sent them to Ayr to be out of the way till I should have seen Mrs. Darnley. I told my husband about the clothes and where I sent them on Thursday night, the 10th current, and I asked him to bring them back from Ayr and take them to Greenock. He wanted me to go to the Fiscal's office, and tell about them, but I felt frightened. I bought the said japanned box on Saturday, the 5th July, in a shop in Argyle Street, on the left-hand side going west. I bought it for general use, and paid 5s. 6d. for it. The sealed labels referred to in the foregoing declaration, and the previous declaration referred to, are docquetted and subscribed as relative hereto, all of which I declare to be truth.

Jessie M'Lachlan.
Alexander Strathern.

This declaration, written upon this and the eleven preceding pages, by Peter Morton, clerk in the Sheriff-clerk's Office in Glasgow, was freely and voluntarily emitted by the therein designed Jessie M'Intosh or M'Lachlan, while in her sound and sober senses, and was adhered to by her on being read over to her, and was subscribed by her and the Sheriff-Substitute before these witnesses, John Gemmel, writer in Glasgow, the said Peter Morton, and Bernard M'Laughlin, sheriff-officer in Glasgow.

John Gemmel.
Peter Morton.
Bernard M'Laughlin.

Third Declaration.

At Glasgow, the 21st day of July, 1862, in presence of Alexander Strathern, Esq., Sheriff-Substitute of Lanarkshire,

Compeared, Jessie M'Intosh or M'Lachlan, presently a prisoner in the Prison of Glasgow, and the declarations emitted by her, in presence of said Sheriff-Substitute, on the 14th and 16th days of July current, being now read over to her, after being again judicially admonished, and being examined, declares and says—I adhere to said two declarations as being correct. And, being now shown thirteen pieces of flannel, to

which a label is attached; as also six pieces of wincey cloth, to which a label is attached; as also twenty pieces, or thereby, of merino, to which a label is attached; and being interrogated, declares—None of said articles now shown me belong to me, and I never had any of them in my possession. I was not wearing a gown of the colour of the pieces of merino shown me on Friday, the 4th July current. I am now shown a piece of merino, apparently part of the sleeve of a gown, to which a label is attached. Declares that it is not the sleeve of any gown belonging to me that I know of. I had at one time a gown of the same colour as that sleeve, the skirt of which I gave to the washerwoman, Black or Adams, as I have mentioned in a previous declaration. I never had a gown of the same colour except that one. The body of the gown was worn done, and I gave it away about a twelvemonth ago to a poor woman who came to my door; or perhaps, for I am not quite certain, I may have thrown it into the ashpit. The several labels above referred to are docquetted and subscribed as relative hereto. All which I declare to be truth.

Jessie M'Lachlan.
Alexander Strathern.

The foregoing declaration, written on this and the two preceding pages, by Peter Morton, clerk in the Sheriff-clerk's Office in Glasgow, was freely and voluntarily emitted by the therein designed Jessie M'Intosh or M'Lachlan, while in her sober senses, and was adhered to by her on being read over to her, and was subscribed by her and the said Sheriff-Substitute, before these witnesses, William Hart, writer in Glasgow, the said Peter Morton, and Bernard M'Laughlin.

William Hart.
P. Morton.
Bernard M'Laughlin.

Evidence for the Defence.

The counsel for the pannel then adduced the following evidence in exculpation:—

G. Paton 1. George Paton, examined by Mr. Clark—I am a milkman, and I have been for some time in the habit of supplying milk to the people who live at 17 Sandyford Place. I supplied milk to that house in July last. I remember hearing of the death of the servant in that house on Tuesday morning,

the 8th. I remember having been at Mr. Fleming's house on the previous Saturday. I had a cart with me, in which was a boy named Donald M'Quarrie, then in my service. I got to Mr. Fleming's house between half-past seven and twenty minutes to eight o'clock in the morning. I am quite sure of that. I came off the cart, but did not go up to the house; the boy Donald went up, and he rang the bell. It was answered immediately. I did not see who answered it. I saw the door opened a small bit, but I did not see who was at it. There was very little delay in opening the door. I could not pay much attention in serving other people; but there was not much delay. I could not say if the bell was rung twice. No milk was taken. I was there on the Sunday and Monday. No milk was taken at either of these times. G. Paton

Did you see old Mr. Fleming any of these times?—The only occasion on which I saw him was on the afternoon of Monday.

How long has the boy M'Quarrie been with you?—I could not say; it would be some months.

Cross-examined by Mr. Gifford—Are there many families in Sandyford Place to whom you supply milk?—A good many; I could scarcely tell how many.

Give us an idea?—Fifteen or sixteen. I called upon them all on Saturday morning. I call on them all every morning. There are a great many families out of town at that time.

Does it frequently happen at that time of the year that milk is not required?—They all get milk that are at home. Some of them do not get it.

Lord Deas—Do some of the houses, which remain inhabited, not take in milk at that season?—Yes.

Mr. Clark—Did the Flemings always get it?—Yes.

Do you remember any instances, except Saturday, Sunday, and Monday, when the milk was not taken in at their house?—Never, to my knowledge.

2. Donald M'Quarrie, examined by Mr. Clark—I was with George Paton, helping to take round the milk in July last. I know Sandyford Place, and used to go there with him. I know old Mr. Fleming, who lives there. I mind of hearing of the death of the servant in that house. I heard of it on Tuesday morning. I mind the Saturday before that Tuesday morning. I was there with the milk along with George Paton. I went up and rang the bell. Old Mr. Fleming answered it. I did not ring more than once. I had not to wait any time before it was answered. The door was shut when I went. I did not hear anything before Mr. Fleming opened the door. The first thing I heard after ringing the bell was the chain coming off the door. D. M'Quarrie

Are you quite sure of that? And after the chain came

D. M'Quarrie

off the door the door was opened?—Yes; by old Mr. Fleming. I saw him. He was dressed. He had on black clothes.

Did he say anything?—He said he was for nae milk. He said nothing more. This would be about twenty minutes to eight. That is the ordinary time of getting to Sandyford Place. I am sure of all that I have said.

Cross-examined by Mr. Gifford—Did you find any day on which the door was not opened at 17 Sandyford Place at all?—No.

Did you always get an answer when the bell was rung?—Yes.

Mr. Clark—Did you ever know of old Fleming answering the door before?—No.

Mrs. Smith

3. Mrs. Mary Fulton or Smith, Richard Street, examined by Mr. Maclean—I knew the deceased Jessie M'Pherson. I have known her for five or six years. I know the prisoner Mrs. M'Lachlan. I have seen her in Jessie M'Pherson's when she was in Grace Street, and had a shop there.

Have you heard Jessie M'Pherson speaking of the prisoner?—I have seen them in company. I have heard her speaking of the prisoner many a time. She spoke of her in a very friendly way. I last saw Jessie M'Pherson on the 28th of June. That was in Sauchiehall Street. I spoke to her.

Tell us the conversation that passed between you?—Walking along the street with my husband, I met the deceased, and not having seen her for two years and two months, I was quite astonished when she came forward. She was looking real ill, and I asked her, "How are you liking Mr. Fleming's family?" She said, "I do not feel very happy or comfortable with old Mr. Fleming, for he is actually an old wretch and an old devil." These are the words she said. She said that very seriously. I then asked her if she was not comfortable with him, as I never heard her saying anything bad of him before. She said she was very unhappy and uncomfortable, and stated that she would come to see me on that day fortnight, as it was her Sunday out, and stay to tea. There was something, she said, she would like to tell me, but, as Sandy was walking beside me, she would tell me when he was away.

I understand she was to come to your house on Sunday fortnight to tell you something?—Yes.

What did you understand that something to refer to?—I could not tell what it was about, for she never lived to come and tell me. I said to her, "You are looking ill," and she said, "I cannot tell you what is the cause, because Sandy is with you."

Do you think she did not like to tell you before your husband?—That is what I understood.

You have said that you have seen Jessie M'Pherson and the prisoner together?—Yes, many a time in her own shop.

On these occasions did they seem fond and affectionate?— Yes. I knew that they were great friends. **Mrs. Smith**

Lord DEAS—Did you ever understand that Jessie M'Pherson was thinking of going abroad?—She never said to me that she was going abroad.

4. MARY M'PHERSON or M'KINNON, wife of John M'Kinnon, fishmonger, Ann Street, Greenock, examined by Mr. MACLEAN—I am foster-sister of the deceased Jessie M'Pherson. I have seen the prisoner and Jessie M'Pherson together. They were quite good friends and affectionate. I last saw Jessie M'Pherson about a month before the murder took place. **M. M'Kinnon**

Did she say anything on that occasion about old Mr. Fleming?—On that day on which I called upon her, I said it was very strange that she never came to see me. She replied that it was very easy for me to speak; she had got so much to do by some servant going away, and that her heart was broken by the old man, who was so inquisitive that the door bell never rang but he must see who was there and know all about them.

M. M'Intyre

5. MARTHA M'INTYRE, examined by Mr. MACLEAN—I was in the service of John Fleming. I went on the 11th November last. I left on the 25th January. I saw a good deal of old Mr. Fleming.

Did you see anything peculiar about him? Was he an inquisitive old man?—Yes, very inquisitive, by inquiring who was in the house, and as to when the servants went out.

Lord DEAS—He made inquiries where you had been, and what you were doing when out?—Yes.

Mr. MACLEAN—Was he special in his inquiries about Jessie M'Pherson?—Yes, specially so.

Lord DEAS—What do you mean by specially? I thought he inquired about all.

Mr. MACLEAN—Did he inquire more particularly after her than the others?—He always inquired after her.

Have you seen him get out of bed to see who was ringing the door bell?—Yes.

Lord DEAS—When did he do that?—In the morning.

Mr. MACLEAN—Was Jessie M'Pherson a strong woman?—She was a wiry woman.

A. Cameron

6. ALEXANDER CAMERON was the next witness whose name was called. It was found, however, that he was in the dock guarding the prisoner. The Court ordered that he should be relieved, and after two minutes had elapsed, he entered the box, and was examined by Mr. MACLEAN—Alexander Cameron, you are a policeman in Glasgow?—Yes. I went to Mr.

A. Cameron Fleming's, at Sandyford Place, on the afternoon of Monday, the 7th July. I was there before Dr. Fleming. He came shortly afterwards. I was there a little after five in the afternoon. I saw Mr. John Fleming there.

Did you hear him say anything about opening the door of the room in which the body of Jessie M'Pherson was found?—Yes.

Would you tell us what he said?—He stated that his son had been told by old Mr. Fleming that Jessie was amissing, and that he (Mr. John Fleming) had gone down the stair and found that the door of the deceased's bedroom was locked. He also said that he went down into the pantry, like to go out to the area to look through the room window.

Lord Deas—With the intention of going in by the window?—Yes.

Mr. Clark—Well, I understand that he went to it?

Witness—Then he looked through the keyhole of the room, and saw a key inside. Then he took the pantry key and shoved the key which was inside out of the door.

Lord Deas—And opened the door with the pantry key?—Yes.

Mr. Clark—Did he say he heard the key fall in the inside?—Yes; and a considerable time after I got a candle, and when the doctors were making an examination, and when I understood that a murder was committed, I remarked to Mr. Fleming and Mr. Chrystal that I could not find a key in the room. Mr. John Fleming then remarked that he thought he heard a key falling, but that he was rather confused.

Mr. Clark—In consequence of what he said first you looked for a key?—Yes, when I understood a murder had been committed.

A. M'Intosh 7. Ann M'Intosh, examined by Mr. Maclean—I am a sister of the prisoner, Mrs. M'Lachlan. Her husband is a seaman, and mate. His wages are 30s. a week. He always gave his wages to my sister. I have a brother called John M'Intosh. He is a seaman. He was in the habit of giving money to Mrs. M'Lachlan.

Pretty large sums?—Yes; he gave her at one time twenty-five sovereigns.

Do you know if Mrs. M'Lachlan was ill after being confined of her child?—Yes, she could scarcely come out of her bed.

For a long time at once?—Yes; she was confined for four months.

Was she unwell in the Broomielaw house?—Yes; she lay there for six weeks at once.

Mr. GIFFORD—When was it she got the twenty-five sovereigns?—It was on the 9th November. A. M'Intosh

What year?—Last November.

Mr. MACLEAN—Was he in the habit of giving her money after every voyage?—Yes; he always gave her money after every voyage.

8. ROBERT JEFFREY, examined by Mr. CLARK—I am a criminal officer, and was engaged in searching the house of Mr. Fleming, in Sandyford Place on the 6th, 7th, 8th, and 9th July last. I remember of finding a bag in old Mr. Fleming's bedroom. There was a little blood upon it. I found the bag on the 8th or 9th; I am not confident which day. R. Jeffrey

[Mr. CLARK here made inquiry whether the bag referred to had been labelled by Mr. Hart, when he was informed that it was not among the articles produced in evidence.]

Mr. CLARK—You found it in Mr. Fleming's bedroom?

Lord DEAS—What kind of a bag was it?—It was a bag of about 3 feet long by about 2 feet broad. It was a grey canvas bag. It was like a clothes bag; it was made of coarse canvas, something like the bag now shown me.

Lord DEAS—Is that not it?—[After examining it a little, witness said it was not the bag.]

Mr. CLARK—What was the blood like?—It was like a bloody mark, and was of the size of a shilling, and was in the centre, on one side of the bag. It was dry, and had a faint appearance of blood. It appeared to me to be not new.

Might it not have been something else?—My impression is that it was blood.

Lord DEAS—What do you say you did with the bag?—I labelled it, and one of the officers took it away to Messrs. Hart and Gemmel, giving me a receipt for it. I have never seen it since.

He gave you a receipt for it along with the other things?—Yes.

Who gave you the receipt?—Bernard M'Laughlin.

Did you call the attention of any of the authorities to the marks?—Mr. M'Call handed it to me.

Did you call his attention to it?—Mr. M'Call saw it.

Did you call his attention to it?—He handed it to me, and asked if I thought it was blood, and I said that I thought so.

That was in the house?—In the house.

Did you see any appearance of blood on any other article found in the bedroom?—I found a strip of cotton cloth, with bloody spots upon it, under a chair.

Cross-examined by Mr. GIFFORD—It was under the covering of the chair.

R. Jeffrey Under what chair?—Under an easy chair.

In the same bedroom?—Yes, in the same bedroom.

(Shown label No. 50.) Is that it?—Yes. It is a long, narrow strip. (Witness here pointed out the bloody marks upon the strip, which was handed to the jury for examination.)

Lord Deas—Did the marks seem to be new or old?—They seemed to be old at the time I saw them first.

They are very small?—Yes, very small.

What is the size of the mark?—They are so mixed that I cannot exactly tell the size.

With this exception, was there any blood upon any article that was found in old Mr. Fleming's bedroom, or upon his clothes?—There was no blood that I could see upon his clothes.

Nor upon any of the other articles that were found in his bedroom?—Not that I am aware of.

Was Mr. Fleming in custody at the time?—Yes.

When you made your search?—We had him in custody when we found the bag, and the cloth found under the chair cover was got after he was taken to Messrs. Hart and Gemmel; but we had him in custody from the first.

Was he in custody until after you sent these articles to the Fiscal's office?—He was taken away on the Wednesday by Mr. M'Call, and I heard that he was sent to prison to Duke Street.

But you gave the articles you found to the Fiscal's officer?—Yes, I gave them to Bernard M'Laughlin.

Mr. Fleming was still in custody then?—Yes.

And you made a search in the house in order to find evidence against him, if such existed?—Yes, I did, along with Mr. Campbell the detective.

Are you sure that nothing could have escaped your notice of that kind that is evidence of Mr. Fleming's guilt?—I think so.

A. M'Call 9. Alexander M'Call, superintendent of police, recalled and examined by Mr. Clark—Did you find a bag in Mr. Fleming's room?—I am not sure whether I found it or whether Jeffrey showed it to me.

What day was that?—It was Tuesday, the 8th July. There appeared to be marks of blood upon it. I thought so at the time.

Do you remember whether old Mr. Fleming told you that the wicket was fastened or not?—He told me that he found it open on Saturday morning, the 5th July.

Did he say whether the window was snibbed or not?—He said the window was snibbed in the inside.

Lord Deas—That is, it was fastened?—It was fastened by a snib.

A. M'Call

Mr. Clark—Was it fastened when you saw it on Monday night?—It was.

Cross-examined by Mr. Gifford—Was the mark of blood on the bag new or old?—It seemed to be old, and as if the bag was washed after the blood was on it.

Did it appear as if the bag had been newly washed?—The bag was clean, but I could not say that it was newly washed.

What was in it?—There was a dirty shirt and some other trifling articles of dirty clothes.

Soiled linen?—Yes.

Did it appear as if it was used for the purpose of keeping soiled linen?—Yes, it did.

Was there any blood on the soiled linen that was in it?—No.

The whole of it was quite dry?—Yes, it was quite dry.

Lord Deas—What was the size of the mark, Mr. M'Call?—It extended almost over the whole bottom of the bag.

Not continuously?—No, not continuously.

Where was the bag lying?—I was told that Jeffrey got it in the bedroom.

But you cannot tell in what part of the bedroom?—No.

Mr. Clark—Did you look at the area?—I did.

Were there any marks of footsteps?—No, nor on the sill of the windows.

C. Campbell

10. Colin Campbell, police constable, Western District.

Lord Deas asked if they proposed to ask Mr. M'Call if the bag in Court was the bag which had been referred to or not.

Mr. Clark—I propose to go on with this witness in the meantime. (To Witness)—Sandyford Place is in your beat?—Yes. I know Mr. Fleming's house, No. 17. I was on that beat on Saturday, the 5th July. That was the Saturday before I heard that the servant had been killed. I was there from eight o'clock at night to six o'clock in the morning.

Did you see anybody there in the course of the evening?—Yes; I saw two women coming out of No. 17 Sandyford Place.

Did you see them well?—Yes, I was standing just outside the railing fornent them.

Did they go away? Did you see what became of them?—They stood for about five minutes, and then one of them went away, and the other went back into the house. That would be about half-past eight or a quarter to nine.

Look at that woman there (the prisoner, who stood up and confronted the witness deliberately)?—That is not either of the women.

You are quite sure of that?—I am, quite.

Cross-examined by Mr. Gifford—Was it daylight?—Yes, it was clear daylight.

Lord Deas—I thought you said that it was in the evening?—Yes, but it was quite clear.

C. Campbell

Mr. GIFFORD—Did you pass them?—I was standing fornent them when they parted, and one of the women passed me.

Did one of the women go in before you passed?—I was going out of the door of No. 18 when they came out of No. 17; and after I went to the railing to speak to a man, one of the women went past me.

Lord DEAS—I have all this down before.

Mr. GIFFORD—You heard the door shut?—Yes, and I saw the woman go in, and saw her shut the door.

How do you remember Saturday night in place of Friday night or some previous night?—I had a letter, which I turned back to the post office to post; and when I got home on Tuesday morning I asked my landlady as to the time. The letter was to my father, Donald Campbell, who lives within three miles of Oban. I did not think of sending for the letter.

By Mr. CLARK—I remember myself that it was on Saturday I wrote the letter.

The proof in exculpation was here declared to be closed.

The Advocate-Depute's Address to the Jury.

Mr. Gifford

Mr. GIFFORD then addressed the jury as follows:—

May it please your lordship; gentlemen of the jury—At the close of this most important, protracted, and somewhat complicated inquiry, it becomes my duty to address you on behalf of the Crown. In doing so I think I need not hesitate to express the deep feeling of anxiety and responsibility under which I lie. It will be my duty to point out to you as shortly as I can—I hope I shall be able to do so satisfactorily—the mode and nature in which the different items of evidence which have been laid before you during the past three days bear upon the issue or questions which you have to try. It will be my duty to tell you what, in my opinion, is the effect and import of that evidence, and to ask a verdict from you. I feel it will be my duty to ask from you a verdict against the prisoner. But I will set a guard upon my lips—as I have done all through, or endeavoured to do all through this trial—that I may say nothing or do nothing that is not only fair to the prisoner—God forbid that I should do anything unfair—but that I shall say nothing which is not warranted, and not only warranted but demanded of me by the public duty which is laid upon me.

A deed has been done which has startled us, which has made the ears of the public tingle—and it is necessary for the safety of society, and that the millions in this civilised country may live in peace, that the perpetrators of such deeds should

Mr. Adam Gifford, Advocate-depute.

(From a contemporary photograph.)

be tracked and punished. And, gentlemen, while our hearts may bleed, still our hands must do justice. I want to bring before you, and I shall do so, as I said, as shortly as I can, the elements of the evidence on which I have to ask a verdict at your hands; and first of all I ask you to look at the indictment which is placed before you. Mr. Gifford.

The prisoner at the bar is accused of two distinct crimes—murder and theft. She stands arraigned for both of these crimes. I am to ask a verdict against her, finding her guilty of both. But you will see at once that they are not necessarily in all cases, or even in cases approximating more or less to the present, connected. A murder may be committed where there is no theft, and theft may be committed where there is no higher crime. And, accordingly, you must consider separately the evidence which is applicable to each of the charges brought against this woman. That evidence unquestionably is mixed up. It blends together, and it is impossible, and will be impossible in disposing of the case, for you altogether to separate the evidence, as if there were witnesses or proof that spoke to one of the charges and witnesses and proof that spoke to the other. Still, it is not the less true that you will consider upon that evidence as a whole whether it proves the murder and whether it proves the theft. Bear in mind, in the first place, the crimes with which the prisoner is charged.

I propose, in the first place, to take the crime of theft, and I will do little more than mention the nature of the evidence upon which that charge rests. I take it first because I think it will clear the ground and enable me to approach with more convenience and with less confusion the consideration of the graver charge—that of murder.

On turning to this indictment you will see that the prisoner is charged with having, on the 4th or 5th of July, 1862, on Friday or Saturday, stolen from the house in Sandyford Place —the house of Mr. Fleming—first, a series of silver and plated articles, which you have seen, and which are now before you, the property of, and in the possession of, the said John Fleming; and, secondly, with having, at the same place and at the same time, stolen another list of articles consisting of dresses, the articles or clothing being the property of, and in the lawful possession of, the deceased Jessie M'Pherson. This is the first charge I wish to deal with, although it is the second charge in the indictment. Now, the silver and plated articles are the property of Mr. Fleming, accountant, who was put into the box, and proved them to be his property. His son, John Fleming, junior, did the same. His father, old Mr. Fleming, did the same, and proved them to have been in the house in Sandyford Place up to Friday, the 4th of July, and that from that place there they were missed in a day or two afterwards—

Mr. Gifford the beginning of next week—searched for, and not found. We cannot doubt the fact that these are the articles—that these were in Mr. Fleming's possession up to that time, and that in the beginning of the week, Monday or Tuesday, they were amissing. Where were they found? In Lundie, the pawnbroker's. You have them found there, and given up by Lundie to the police. Who took them there? The prisoner at the bar. When did she do this? On Saturday, the 5th of July. She is identified by young Lundie, the person to whom the goods were given when they were pledged. You heard of the conversation that took place when the articles were pawned, and what opportunities young Lundie had of seeing her, of making sure of her person, and there can be no doubt on the subject. The other pawnbroker, Lean, does not identify the woman; but he heard the conversation, and heard the name given under which the articles were pledged. You heard the prisoner's declaration admitting that these articles were pledged by her, giving what, in an ordinary case, in the common run of cases which you have to try here, would be called an incredible and a false story. And, accordingly, you have here, in regard to these silver and plated articles, what you have often been told in trials in this Court, the ordinary, the natural, and the best evidence in the world—the things lost, stolen, found in the possession of another party who pawns them or otherwise disposes of them so recently, and who, after being apprehended, cannot give any account of them. No farther back than the beginning of this week we had many such cases on which convictions were got. This being a mere question of theft, I ask you if these articles were stolen, and stolen by the prisoner?

But then the second set of articles is in a somewhat different position from this. But under the charge of theft, suppose there had been no murder, it would be much the same as to these articles as it is in regard to the silver-plated articles. It would be necessary for the prosecutor to bring them into the possession of the prisoner, or to find her using them as her own, to find her unable to give any account of them. But I will defer, for this is just one of the points upon which the evidence of the two crimes mixes, in reference to this point, what I may have to say upon the evidence that brings the dresses, enumerated on page 2 of the indictment, into the possession of the prisoner until I come to speak of the other charge. I only go on to say in regard to this charge of theft that if you are satisfied that these dresses came into possession of the prisoner, were recently found in her possession, and the accused found disposing of them, then you will have no difficulty whatever in finding her guilty of theft; and, therefore, gentlemen, I dismiss this part of the case with these very few

observations, very confidently asking a verdict from you; and I confess I cannot see a door of escape by which you can avoid finding the prisoner guilty of the crime of theft. Mr. Gifford

Gentlemen, this case stands, perhaps, unprecedented in reference to this charge of murder, among the many crimes that have ever taken place. It is encompassed with mystery, which is not uncommon. But this crime is encompassed with a mystery of a darker kind and deeper shade than any other. In the present case you have, what cannot fail to impress you more with the solemnity of the trust reposed in you, the fact that a defence has been stated that the murder was committed by another person who is named. The special defence which you heard read on Wednesday morning is that, besides the plea of not guilty, the pannel alleges that Jessie M'Pherson was murdered by James Fleming.

Now, the first observation which I think it proper to make in regard to this matter is that in the present trial you are certainly not trying the case of old Mr. Fleming at all. This is not a trial in which the question of his guilt or his innocence has been the matter of investigation, brought before you upon the indictment. The question is not whether James Fleming is guilty or innocent, but whether the prisoner at the bar is guilty or innocent of the charge made against her. That is the question to which your attention must be directed—that is the only question which you can answer in this Court. Quite true, everything which can throw light upon that question is relevant and is admissible as a competent matter for inquiry.

If the prisoner at the bar can show that she did not commit the crime with which she stands charged, because she could not commit it, being absent, because she had no opportunity or because it was completed and perpetrated by some one else, known or unknown, all that is relevant to the case. Well, you see, gentlemen, it is only in reference to her that any such inquiry can be gone into. Apart from the investigation as to her guilt, all questions of the guilt or supposed guilt of any other party are irrelevant or improper. And therefore, while you will consider, while you will anxiously weigh every suggestion which has been made as to the possibility of the murder being perpetrated by somebody else than the prisoner—whether that other person be James Fleming or some other party unknown—you will inquire into these matters solely with the view, and only to the effect, of ascertaining whether or not the prisoner is guilty of the charge which has been imputed to her. That is the object of the investigation. The prosecution has shut out nothing. Every facility has been given—I think every facility has been given to inquire in the fullest possible way to the bottom of this dark mystery, and if proof exists, if proof has been laid before you, if circumstances

Mr. Gifford amounting to proof have been brought out in evidence before you to lead you to suppose that the deed was done, not by the prisoner but by some one else, or may have been done by some one else, on reasonable probabilities, you will unquestionably give her the benefit of such a doubt, and acquit her of the charge which has been made against her.

But the guilt of James Fleming is not the subject of inquiry at all. It is possible in crimes of this kind that more than one person has connection with it. If guilt is brought home to one, it will not be enough to say "Somebody else had a share in it." If there were more murderers than one, if the prisoner were one of them, you must find a verdict of guilty against her. For the question always is, and the only question is, Is the prisoner guilty or is she not guilty?—not had she confederates, not was she alone. These are not the questions, and your verdict will not find anybody else concerned in the crime. That is no part of your verdict; all that your verdict can find is whether or not the prisoner was concerned.

I now pass to what is generally the first matter of inquiry in a case such as this. Was there a murder committed? Was Jessie M'Pherson murdered on or about the 4th day of July, 1862, or on one or other of the days of the month? A day or two is not material, because, in a matter of evidence, even the date specified would be sufficient. Was Jessie M'Pherson murdered? Now, I will only recall to your recollection the witnesses and the evidence which was given.

You heard a great number of witnesses tell the appearance the room in Mr. Fleming's house presented on the Monday afternoon. You heard the description of the room, and you heard the description of the body; you have heard with extreme minuteness an account of the wounds and injuries which had been inflicted upon the deceased. The body was found lying face downwards on the floor in front of the bed, naked from the waist downwards, the head and upper parts covered with a dark cloth—one of the witnesses called it a carpet. On the body there were—I am almost afraid to say it—nearly forty wounds—wounds on the head, wounds on the neck and shoulders, and wounds on the hands and wrists. Hear what the medical evidence says about these wounds—"The head was dreadfully mangled, and the hair was dishevelled and matted with blood. Two deep incised wounds passed transversely across the bridge of the nose, dividing the soft parts and the bones. Another transverse wound, 3½ inches long, crossed the forehead in the middle line, and cleft the outer table (only) of the skull. On the right side of the neck eleven wounds could be distinctly distinguished. These partook partly of the character of lacerated, contused, and incised wounds. The right ear was destroyed, and the right half of

the lower jaw was broken into fragments. Some of these wounds penetrated deeply throughout their whole extent, while others only passed deeply at their anterior extremity, the depth of penetration decreasing as they extended backwards. They varied in length from ½ inch to 3 inches, and the continuity of some of them was broken. The great vessels of the right side of the neck were destroyed, and the outer table of the skull was much injured just below the right ear. Ten wounds, much less severe in character both as to extent and depth, were found upon the left side of the neck, and on the back of the neck a few shallow incisions were observed. Midway between the right ear and the crown of the head the scalp was divided by two cuts, each 3¼ inches long. These had run into one another. A third incision lay close to them, and beneath them the skull was deeply cleft, but not wholly divided. Nearer the forehead than these wounds, and still upon the right side of the head, a large irregular scalp wound was found." Then there were three other severe scalp wounds. And then there were wounds on the wrists and other parts of the body which I need not detain you to explain. Here is the result which the two medical men who made the post-mortem examination, Dr. Fleming and Dr. Macleod, came to—"The reporters consider themselves justified in drawing the following conclusions from their examination of the body and the place where it was found, (1) that this woman was murdered, and that with extreme ferocity; (2) that her death had taken place within three days; (3) that such an instrument as a cleaver for cutting meat, or a similar weapon, was the most likely to have caused the fatal injuries found; (5) that the injuries had been inflicted before or immediately after death; (6) that all the wounds on the neck or head, with the exception of those on the nose and forehead, had apparently been inflicted by a person standing over the deceased as she lay on her face on the ground; (7) that the comparatively slight degree of strength shown in the blows would point to a female, or a weak man, as having inflicted them, and, lastly, that the body had been drawn by the head, with the face downwards, along the lobby from the kitchen to the front room." Mr. Gifford

In answer to questions, the medical men had no difficulty in saying that the wounds upon the body caused death, the death of Jessie M'Pherson. No other cause of death existed. Several of the wounds, taken singly, were sufficient to cause death. The incision on the neck alone was fatal. The blows on the head might probably have proved fatal from the shock they would give to the brain. The hæmorrhage or bleeding, from the wounds on the vessels, if not stopped, was also sufficient to have caused death, and so on. I need not touch upon whether these wounds were self-inflicted. Such an idea

Mr. Gifford would hardly enter into the mind of any one, and the only conclusion therefore that can be drawn is that the woman was murdered. Dr. Watson said that it was quite impossible that the injuries could have been inflicted by herself.

Well, then, are you satisfied that Jessie M'Pherson was murdered? That is the point you have to consider before going any farther. If there was no murder, then there can have been no murderer. If she died from natural causes, if she killed herself, if she died from accidental causes, then there is no murder; but surely I do not need to detain you one moment upon such a question as that. I content myself therefore with having read the conclusions in the medical report, without referring to the evidence which was given in reference thereto, as absolutely conclusive on the point that a murder had been committed, a murder, in the language of the report, of extreme ferocity.

You heard a good deal of evidence as to whether there might not or was not—for if they did not mean that, I do not know what they did mean—whether there was not a key in the inside of Jess M'Pherson's bedroom by which that bedroom had been locked from the inside. Both the windows of the room were stanchioned, and no one can get out or in by these windows of the bedroom. If the door was locked from the inside, then it follows that the party who inflicted the injuries must have been herself. It would come to suicide. It is very common for those who commit suicide to lock the door and then do the thing. Surely, gentlemen, there can be little difficulty about that. There was no key in the inside of that door. Mr. John Fleming himself was perfectly distinct upon that. He said, "There was no key. I did not push out any key, and no key fell on the floor. If there had been I would have seen it. I would have put my foot upon it as I entered." Dr. Watson—he was brought, you remember, by Mr. Fleming, who, upon discovering the state of matters, ran from door to door, and down the street to get a neighbour to come in, in the distressing position in which he was placed—Dr. Watson seems to have thought that Mr. Fleming said something in the story he gave about pushing a key out. Mr. Fleming, when examined, said, "He must have misunderstood me." And is not that the necessary, the only, explanation of it? Nobody doubts Dr. Watson's good faith. He supposed he was going to see a suicide. But that is excluded by the character of the injuries, and, accordingly, there seems no possibility of supposing that the key was in the inside, for it was searched for by the officers and could not be found. The only key was the key which has been taken possession of—the key of the pantry. It was found to open both doors.

Now, gentlemen, the only other matter, perhaps, upon this branch of the case is—Were the fatal wounds inflicted substantially in the manner described in the indictment, with "a cleaver or chopper, or some similar instrument"? You have had laid before you a chopper proved to be the chopper which lay in the kitchen of Mr. Fleming's house. The old servant identified it that it was there. You had it found by the officers, and taken possession of by them in the course of the inquiry which was instantly instituted; and you had the medical men, all of them without exception—Dr. Watson, Mr. Joseph Fleming, and Dr. Macleod—saying that is the instrument, or an edged instrument like that, which inflicted the blows which resulted in the death of the murdered woman. There seems to be no difficulty, no possible difficulty on that point, and that relieves you, I think, from all inquiry as to the question whether the murder was committed, and I need address you only on the question who was the murderer, or, rather, it is not who was the murderer, but whether the prisoner was or was not the murderer. You are not on a roving commission, asking who did the deed. You are only asked—Did the prisoner at the bar do it? Mr. Gifford

Gentlemen, in approaching this question, I think it right to make a single observation in reference to what I am sure will be said about circumstantial evidence. It will be said, "This is a pure case of circumstantial evidence. There is nothing but circumstantial evidence against the accused; there is no direct proof brought or can be brought against the accused, and it is a dangerous thing to convict on circumstantial evidence." Gentlemen, that is an observation in which I think you will not be able to concur. It depends upon the kind of circumstantial evidence: it depends upon the nature of the circumstantial evidence, for very, very often, gentlemen, circumstantial evidence is far more satisfactory than what is called direct evidence. It is less liable to corruption. A direct witness may lie; he may dream; he may believe he saw what he never saw. But when the evidence consists of isolated little circumstances, none of them pointing to a deed directly, none of them constituting a deed directly, but requiring to be pieced together and united, when, I say, these are circumstances, and these are woven into a chain which is found ultimately—one thing with another or one person with another—to go together, that is satisfactory evidence, gentlemen, and if that is completely done—if the circumstances are conclusive, if time and place agree, if other little elements unsuspected and unthought of and impossible to be prepared are found exactly to accord with the result or with the existence of a particular fact as to which the inquiry is made—that is more satisfactory than if you had one or two witnesses saying they

Mr. Gifford saw it. It is more safe to go upon, and accordingly you will consider whether these circumstances are sufficient to warrant you to give the verdict which is asked from you.

I think I will be able before I am done to show you the prisoner going from place to place and doing act after act just as really and distinctly as if you had seen and followed her that eventful Saturday, Monday, and following days. And if so, if witness after witness each contributes his small portion of evidence to make the story complete, without contradiction and without discrepancy, then that is circumstantial evidence; but it is far better evidence than the simple and, it may be, unsupported testimony of two witnesses who said they saw it.

Now, gentlemen, in inquiring into the guilt of the pannel of what I now assume to have been a murder, the first question which meets us is what is called the *locus delicti*, the place where the murder was committed. That, I think, there is no doubt about. The murder was committed at No. 17 Sandyford Place. You have had a description of that house from various people, particularly of the lower part of it and of the street flat, as well as of the ground flat, and I am sure you have had a very distinct general impression and understanding of the locality. But there has been prepared a plan which, and at your request, you will remember, the gentleman who prepared it was called here to prove, and which plan you will have an opportunity of looking at if you choose before you give your verdict. Generally, there is no doubt about where the deed was committed. A body is sometimes washed ashore from a river, and it becomes a question where death was met. No doubt of that kind can exist in this case. It was in the lower part of that house, and that lower flat is, I have no doubt, in your mental eye as clearly as if you had seen it. The front door is approached by steps leading over an area, which is about 6½ feet deep. Towards the front, on the lower flat, there are two apartments, one of which is the servants' bedroom, where the body was found. It has two windows, both stanchioned. The other is the pantry, as it was called, or the larder, or store-room. In that apartment there is a wicket in the grating, by which a person can get out and in, the object being to have access to the area there, it being a very common thing in Glasgow to have no area steps leading into the front area. The back part of that flat consists of a kitchen and another small apartment. There is no front lower door, but a back door leading into a green, that green extending a little behind, and in the wall of that green there is a door leading into a lane. By that door, Mr. Fleming explained, coals and other heavy articles were brought into the house, so that the front door did not require to be used. You will require to keep these leading features of the house in view.

Mr. Gifford

The statement of John Fleming as to the finding of the body really admits of no dispute. The matter of the key I have already referred to, but in other respects his accuracy may, I think, be taken as undoubted. In the house at Sandyford Place, then, that murder was committed. There is a question, however, as to the part in which the deed must have been perpetrated—the kitchen, the lobby, or the servants' bedroom. You heard to-day from Dr. Macleod, with very great clearness and distinctness, what he meant when he stated in his report that evidences of a severe struggle were obtained as having taken place in the kitchen. You heard him describe the marks on the floor, and so on, which he was able to trace on a minute inspection, kneeling down with a candle on the floor. You have heard of the track between the kitchen and the room. Then you have heard of the body being found in the mode described in the room itself. These are part of the very extraordinary circumstances connected with this case. Traces of washing are found in the kitchen, not in the lobby, although some of the witnesses stated that. We got it clearly enough, chiefly from Dr. Macleod, that it was a trail, or wipe, rather, that existed in the lobby, not marks of washing, although the thing that had been trailed might have been wet with blood. You remember the evidence about that; it was somewhat different, as different people would take different views on looking at the same thing, through their attention, as is inevitable, being directed more or less to different circumstances. But you remember the account you heard of that, and you will judge of it. I refer to it, however, rather for the purpose of submitting to you—and I think you will go along with me in it—that it is not very clear whether the murder was committed in the kitchen or in the room. That there was a struggle is evident, but that is not the question. That there was a struggle is borne out by the appearance of the body—a struggle up to a certain point. The wrists are wounded, the hands, the face, the forehead, and you heard Dr. Watson telling you that these wounds might produce insensibility. The rest of the wounds are inflicted upon a prostrate woman. You will judge whether you think it is of much consequence—I think it is not—whether the murder was committed in the kitchen or in the bedroom.

Who was in the house that night? We have got the *locus*. Now, it is an extraordinary circumstance connected with this case—it is one of the circumstances of this case which distinguish it almost over all others—that in the house that night there was a person sleeping, as he tells you, in the flat immediately above the kitchen—sleeping in his usual apartment. And the extraordinary circumstance does not stop there; he was there; he was there next day, Saturday, and a

Mr. Gifford

part, the greater part, of Sunday and Monday, for it was not till the Monday that the murder was discovered. And you will see, gentlemen, that the gravest possible suspicion is attached to such a person so acting. That was James Fleming. He slept in his usual room that night. All the other members of the family were away at the coast. As to how his sleep that night was disturbed we have no evidence but what we heard from himself. He says that in the morning—a summer morning—he looked his watch and he found it was four o'clock. He says he heard a "squeal," and then two "squeals." That was the expression he used. When he heard these squeals he got up and started from his bed, but on hearing nothing more he returned to his bed again. He formed two thoughts. He first thought it was something outside the house—loose company on the street. When he heard the second cry his thought was, some one had come to spend the night with Jessie; and, although the cries were cries of distress, he said he did not think it necessary to go downstairs to inquire, and went to sleep again. Morning came. The old man was accustomed to get porridge brought to him, I think, in bed by the servant—porridge and milk. She did not come with his usual morning allowance; and, after waiting some time, he got up, and he told you he went downstairs to see why his porridge had not come. He entered the kitchen, found the screen, with clothes upon it, drying before the fire, which was still burning, though weakly. Finding the servant not there, he proceeded to her bedroom, and, finding it locked, gave three loud "chaps," or gave the three loud chaps and then tried the door, I don't remember which was the expression. He got no answer, and returned upstairs.

Then, gentlemen, you will remember, as he gave his narrative, he said he prepared his own breakfast. He said that the first person who called, according to the first statement he gave, was the servant of a neighbour for the loan of a spade. You remember what he told his lordship, that the spade was not given to the person, who went away. He thought that Jessie had gone away, locked her door, and left the house altogether. Under that belief—this is his statement—that he attended in the house, prepared his own meals, made no remark to anybody that day, going to bed at his usual hour, apparently, after taking what he wanted for supper; rising next morning, he prepared his own breakfast, going twice to church, reading in the afternoon, and going to bed as usual, and on Monday going to his work at the small tenements where were the houses whose rents he collected, took his breakfast there from a person who lived in the tenement, and the bread which he got to it. No doubt, gentlemen, a most extraordinary statement. And you will not wonder when you hear that he

was apprehended, and that a very serious charge was made against him, under which he was taken up—not committed, but apprehended. Inquiry was made, and he was kept in custody for a considerable time, and not until after a thorough inquiry had been made did it appear to the public authorities that the evidence pointed in another direction. Mr. Gifford

But the statement, extraordinary as it is, is made more extraordinary when it was found, according to the evidence and the statement which Fleming now makes, that he is wrong in the statement that no one called on the Saturday before the servant Brownlie called for the spade, for before that the milkman called, and he answered the milkman and said he did not require any milk. From these circumstances an accusation, a serious accusation—an accusation directed to the exculpation of the prisoner, and thus quite relevant—is made against James Fleming. It is said, because you gave a wrong account on your first examination—although ultimately I think that the explanation was sufficiently apparent—because you gave a wrong account of the first person who called, therefore you, James Fleming, are to be considered the murderer, and all other evidence is to be laid aside which attaches guilt to the accused, the prisoner now at the bar.

Gentlemen, consider the whole circumstances; James Fleming is a very old man. According to his own statement, he is eighty-seven; according to his son's statement, the same; according to the statement of his son's cashier, he had said two years ago that he was eighty-five. I do not care for a year or two, but a great age has unquestionably been attained by this old man. His faculties, however, are intact; his mind is entire, and his bodily powers are comparatively active. But, then, you will consider—and you cannot lose sight of this—how far a man of that age can be expected to act and remember with that precision and that exactness which is to be expected in a younger man, or a man in the prime of life. It was most extraordinary of him not to inquire for Jessie M'Pherson. I think that is the wonderful thing about this matter, for I confess I am not very much surprised that he forgot about the milkman calling in the morning. I am not surprised at that at all, not surprised in comparison to the surprise I feel at his general conduct in reference to the disappearance of this woman. For observe how he acted. He had missed her for some time. He had gone downstairs. He had found that the servant was not in the kitchen. He had tried the door of her room and found it locked, and he came to the conclusion—it might be rashly and hastily—that she had gone from the house. Time, gentlemen, is one of the evidences in this matter to which too great significance cannot possibly be attached, and my friend's observations against Fleming in reference to that arise

Mr. Gifford from this, that he opened the door to the milkman before he went down to miss Jessie. Now, have you any evidence leading you to that? That he forgot the milkboy is of little consequence. He forgot that until it was put to him in five or six different ways in the witness-box. At length he said, "I might have done that; I do not recollect of seeing the milkboy." But the circumstance that he forgot is of little consequence if you are not satisfied of this, that he opened the door himself at the first ring, without delay, and that, I submit to you, cannot be proved.

But there are other elements in the case, other circumstances which have to bear upon this part of the case. You hear that he was a man of peculiar habits—great curiosity, inquisitive—to the annoyance and distress, apparently, of his family, who got out of all patience with him. He was constantly in the kitchen about the affairs there, looking who went out; the bell could not ring without him going out to see who it was. All that goes to show his actions in a particular way. You cannot found the same observations on them as you would draw from similar actings in another man. But, gentlemen, that question about James Fleming sinks into comparative insignificance when we call upon you, as I now do, to accompany me, very briefly, while I point out the evidence upon which this accusation rests against the prisoner. But, passing from this—leaving its inconsistent and its extraordinary character to receive the weight which you will think right, I ask you to look at what I say is a far more important question—the evidence of guilt affecting the prisoner.

The first observation which I make here is that the accused is an intimate friend of the deceased, the murdered woman. They were no strangers to each other. They had been fellow-servants in the same family two years previous to September, 1857. The prisoner knew Jessie M'Pherson well. She knew what she had, she knew her habits, she knew her ways, and, more than that, she knew 17 Sandyford Place well—all its entrances and exits—all its rooms and localities. She was a servant there, and I consider it—I don't say a circumstance of suspicion, but of difficulty—that the person accused had an intimate knowledge of the deceased, of her habits, and of the place where the crime was committed. You have that in the declarations. You have in the prisoner's declaration a history of that connection and intimacy. You remember that distinctly, and I don't require to refer to it in the least.

There is one statement in the declaration, and that is as to the access by the back door. If you remember the house and the access by the back door, and I see in the declaration—almost the first statement the accused makes in reference to the last time she saw Jessie M'Pherson—something with regard to

this door. She says, "I last saw Jessie M'Pherson in my own house at the Broomielaw on Saturday evening, the 28th June last. I had also seen her the previous night at Mr. Fleming's house at Sandyford Place, and I went there about ten o'clock. I rang the front door bell, but Jessie M'Pherson happened at the time to be in the dining-room, and she told me to go round the lane behind the house, and she would let me in by the back door. I went round and found the back door open, and Jessie M'Pherson speaking there to a servant in the adjoining house, No. 16 Sandyford Place." You know we had Miss Brownlie here, and, though there is some difference between the two statements, it is supposable that, after the lapse of a week, she may not have remembered particularly. What I ask your attention to is that the back door is a common way of access for Jessie M'Pherson's friends. When we take into account the character that has been proved regarding old Mr. Fleming, I dare say that it is a door that will be used pretty freely. Mr. Gifford

The next question is as to the night of 4th July. That is a most important question. It is proved that the deed was done in the place stated and on the night referred to. Now, where was the prisoner that night? In her own declaration she says that she was at home all night. After describing her occupations during the day, she says—"I was not out of my house till after ten o'clock, when I went out to convoy home Mrs. Fraser, a seaman's wife who lives in Grace Street, Anderston. I walked with her as far as the Gushet House, Anderston, where I parted with her. I intended to go to the house of James M'Gregor, a foreman clothier, who resides in Main Street, Anderston, and who is a friend of my husband's, but I changed my mind and returned home by way of Argyle Street, James Watt Street, and Broomielaw. I reached home about a quarter past eleven o'clock. I let myself in by means of a check lock key which is in the house. This key I carried myself, and always let myself in with it. It is one of the keys of the press in the lobby of my house, and for which press there are two keys. On going upstairs I found John M'Donald, a young man who lodged with Mrs. Campbell, who occupied a part of my house. He was going upstairs before me, and went into the house along with me. He did not remain in the house above a minute, and then went out again. I went straight to bed, without speaking to Mrs. Campbell, but in about half an hour I heard the door bell ring, and Mrs. Campbell opened the door, and I heard from the voice that it was John M'Donald returning. I remained in bed till between seven and eight o'clock on Saturday morning without ever having been up or out of the house. My son, a child of three years of age, slept in bed with me." Now, is this statement true? Gentlemen, part of it is true. She did go out with Mrs. Fraser on the

Mr. Gifford Friday night as far as the Gushet House, but the remainder of the night, wherever she was, she was not at home. We have evidence of that. Mrs. Campbell, who occupied two of the apartments of the house, tells you exactly how that was. In the first place, there were no check keys by which a person outside the door can let themselves in when the latch had fallen. There never were any such keys, although the prisoner was often speaking of getting them. The washerwoman tells you the same. She had told Mrs. Adams to send a smith to sort the lock, but she forgot to do so. The police took possession of all the keys of the house. They have all been tried. Not one of them opens the check, and Mrs. Campbell's evidence is that they had to let in one another when the door was shut. They had no other means of getting in. Accordingly, Mrs. Campbell goes on to explain that on Friday night she saw the prisoner dressing to go out. Mrs. Fraser came in and went into the prisoner's room. Then the prisoner came into Mrs. Campbell's kitchen and said, "I am taking your basket," and went into her press, leaving the room again, and Mrs. Campbell went to bed. About ten o'clock she heard footsteps going out, which she took to be those of Mrs. Fraser and the prisoner. She heard the door shut. At eleven o'clock the lodger, M'Donald, a seafaring man, came in. Mrs. Campbell opened the door to him. The prisoner's account is that he came in with her, then went out again, and that she afterwards heard his voice as he was let in by Mrs. Campbell. But Mrs. Campbell's account is that M'Donald came in and went direct to his bed. Mrs. Campbell lay awake a considerable time, but no one rang, and after she fell asleep she was not awakened till half-past five in the morning. And what is she awakened by? The cry of the prisoner's child in the prisoner's room. She goes there, and she finds the prisoner's child alone. Mrs. M'Lachlan is not there. Mrs. Campbell takes the child to her own room, there dresses the child, and she does not go to bed again. And the door bell rings—when? At nine o'clock. I think that was the hour when Mrs. M'Lachlan, the prisoner, returned, and was let in by Mrs. Campbell.

Now, gentlemen, the prisoner was not in her house on that eventful night. There can be no mistake about the matter. Mrs. Campbell sees from her window a public clock, and the hour is fixed thus. The hour at which she went into the prisoner's room was half-past five, and she found the child alone. But, gentlemen, the matter does not rest quite here. She is not only out that night from her own house, but she is out advisedly and preparedly. She had intended to be out late, or to be out some part of the night. You had the witness Mrs. Adams, who told you that she pawned her looking glass by the prisoner's directions, and lifted that grey cloak which

the prisoner went out with that night. I shall speak of the dresses afterwards. I must incidentally allude to them just now. Mrs. Adams lifted the cloak; that same afternoon—the Friday—the prisoner wanted Mrs. Adams to come back, and to come when?—ten o'clock. What to do?—to keep the prisoner's child, as the prisoner was going out to see Jessie. The cloak is provided that she may go out; she tells where she is going, and she makes preparations for a late visit, and to the question put to her, "Why are you going so late?" the only inquiry of Mrs. Adams, the explanation which she received is entirely in accordance with the evidence, "That fashious and troublesome old man, I let him be in bed first before I go and see Jessie." He was troublesome, he was inquisitive, but he goes to bed comparatively early, and that lets us see why she goes to visit Jessie at the late hour of ten o'clock. Well, this is not guilt; by no means; it is quite an innocent thing to go late—quite innocent to be out late. The reason is a very justifiable one, and, so far as we have gone, not an unnatural reason, and it is an evidence of innocence—frankly, I admit—that she asks Mrs. Adams to keep her child and tells where she is going. That goes against premeditation for murder certainly, but it does not go much further, for it leads you just to suppose—naturally, to suppose—that the person does what she says she intended to do—go and visit Jessie. Then we take her on the way to Jessie. The Gushet House is about ten minutes' walk from Broomielaw Street, the prisoner's house, in a north-westerly direction; and Sandyford Place is just as much further on, the Gushet House being apparently about half-way, by the evidence of one of the police officers we had yesterday. So she is left half-way crossing Stobcross Street, where that Gushet House seems to be. Mrs. Fraser leaves her there. Nobody that we can find sees the prisoner from ten or quarter-past ten on Friday night until nine o'clock next morning, when she returns home. Well, gentlemen, that is a suspicious circumstance when it is coupled with the prisoner's declaration. I am not founding on the declaration being false. Gentlemen, you will not convict because she tells lies; that is not a ground for conviction. But you will look at the declaration in connection with the other evidence to see if it does not exclude any explanation which could be given of the result to which that other evidence leads. Mr. Gifford

Well, gentlemen, she returns next morning. What did she bring? Is she carrying anything? A bundle—Mrs. Campbell's evidence is to that effect—under her cloak, going into her own room, and it is in evidence that, besides her own room, she had the command of a cellar at the foot of the stair. The bundle!—I think the evidence tells us, by the by, very distinctly what it was.

Mr. Gifford The first point I will take here—and it is the first flash of lurid light that is thrown upon the theft or murder—is, what was done with the plate that forenoon? The plate is taken to Lundie's, the pawnbroker, between twelve and one o'clock. I have already spoken to the proof of that; it is admitted by the pannel herself in her declaration, and is an important piece of evidence. But it does not even need that confession, for we have Mr. Lundie, who has distinctly identified the prisoner as the person who pledged the plate. Now, that plate was in Sandyford Place on the Friday; it must have been taken out of it; and the prisoner was out on that Friday night. Can she give any account of how she got it? Yes. She says she got it from Mr. James Fleming. She does not say that she got it from Sandyford Place. Oh, no! Her statement or declaration is—and you must keep it in view—that James Fleming came to her house on the Friday night and gave her the plate, with directions to pawn it for him, as he wanted some money to go to the country, the Highlands or some such place. Short of money! And he brings this plate, that the prisoner may pledge it—brings it in the cloth or wrapper which is round it now; and in that state the prisoner says she takes it to the pawnbroker's. Next day—on Saturday, the 5th—she says that James Fleming came to get the proceeds, or such part of the proceeds as he required. What part did he get? She says she went to seek £3 10s. for him. She got £6 15s.; and she tells you in her declaration that on the Saturday night, when old Fleming called at her house, he offered her £5 for her trouble—the trouble of pledging the plate by which £6 15s. was raised, that he might get £1 15s. She said that was too much, and he accordingly only gave her £4, keeping £2 15s. to himself. Mr. Lundie's statement was that she asked £6 10s., and that she got £6 15s. Gentlemen, is this statement credible for a moment, and could it be listened to for an instant if it was a charge of theft? James Fleming, if not a wealthy man, is easy in his circumstances. He lives apparently free in his son's house. He has two bank accounte. He has £150 at the National Security Savings Bank and £30 at the branch of the Royal Bank. Do you believe that if Mr. Fleming wanted £2 15s., or some such sum, that he would take his son's plate on a Friday night, carry it away to be pawned on Saturday, when he had £180 at his command for the signing of his name, and give £4 for the doing of it? Can anything be more incredible? And that is the story you must believe, unless you hold that the prisoner could not get these from James Fleming, but at Sandyford Place. And if the prisoner got them at Sandyford Place, she was there on the night of the murder; and that is the first item of real evidence that brings her there. And that is real evidence that the deed

was done then, for the plate left then. Even according to the prisoner's declaration, the plate left on Friday; it must have done so, for it was in the pawnbroker's hands on Saturday. Mr. Gifford

But the evidence does not stop there. And here I come to what I think you will agree with me is one of the most extraordinary instances of the tracing of dresses which perhaps is on record. How was Jessie M'Lachlan, the prisoner, dressed when she went out that Friday night with Mrs. Fraser? She had on a grey cloak. There is no doubt about that. That is the cloak that had been lifted that day from the pawn for the purpose of going out with. And in order to lift it—in order to pay some 4s. 1½d. or 4s. 3d. or some trifling sum like that—she had to pawn a looking glass for 6s. What had she on under that cloak? Mrs. Fraser did not notice. She merely said it was a dark dress. Mrs. Campbell noticed that it was a merino dress—a merino gown which the prisoner was known to have—and which Mrs. Campbell had often seen her with. There was a peculiarity about it too, to which attention is called, and which is an important element in this case, namely, that it is flounced. A flounced merino gown. There is something about its trimming too, but its trimming might not be noticed. It is the prisoner's merino gown that she goes out with at night. What dress did she come in with in the morning? A grey cloak? Yes; a grey cloak. Did she come in with the same merino gown? Mrs. Campbell, when she first came in, did not notice she had on a brown gown. But when she went out shortly afterwards, she had on—Mrs. Campbell testifies—a gown she never saw the prisoner with before—a brown merino gown, too, gentlemen, but not the prisoner's brown merino gown. And among other peculiarities —some of them were described about the way in which it was folded, and something in the back; but the leading peculiarity, which is quite enough for our purpose, is that it has a plain skirt. It had no flounces. Gentlemen, there can be no mistake about that. We have the gown—I told you how we have it. We traced it step by step, and there it is. But, gentlemen, it is Jessie M'Pherson's gown; the murdered woman's gown. There is no mistake about this. She goes to Mrs. Rainny to get Mrs. Adams, who lodges with Mrs. Rainny, to do an errand for her, that is, to go to the pawnshop to relieve something probably—at all events, to go to the pawnshop. She had money now. Mrs. Adams is not in, and she leaves Mrs. Rainny, giving her name—"Mrs. M'Lachlan had been calling." And she comes back in some two hours—about eleven o'clock, I think, is the time. "Is Mrs. Adams in yet?" she asks. "No." Well, then, "Perhaps Mrs. Rainny (Mrs. Adams' landlady) will do the errand"; and she consents. And what is the errand? To go to Hutchinson's pawnshop and lift a blue poplin dress

Mr. Gifford of the prisoner's, which had been pledged there. She gave her a pound note to do it and a pawn ticket; she goes and does it, and sees the parcel opened in her own house; there you have it before you. What happens next? You remember. I cannot go over all the elements and evidence as I go along, but you remember that the witness Adams knew the poplin. What happens in Mrs. Rainny's house? Well, the prisoner actually shifts herself there; takes off this brown dress with the plain skirts—which Mrs. Campbell had never seen her with before—and puts on her own dress, the blue poplin. She tells Mrs. Campbell what she is going to do. She is going to the dyer with the brown merino dress. When we hear of dyeing clothes we think it is to extinguish all traces of blood, but that was not her object. There was no blood on the brown merino gown she had. It is not said that there was. She wanted it dyed black; she wanted it to have a different look. Why? It is Jessie M'Pherson's gown. But Jessie M'Pherson! There is no Jessie M'Pherson. Mrs. Rainny asks, "Why dye that? it is a very bonny gown." But she would rather have it black; and accordingly it is put up under her arm, and she leaves Mrs. Rainny's, and when we have the dyer brought before us—an intelligent witness—Miss M'Crone identifies the prisoner as the woman.

Mr. Clark—No, she says a woman came.

Mr. Gifford—I beg pardon, I am wrong, it was an unintentional mistake. The witness did not identify the prisoner, but said that a woman came to get a gown dyed. It is a brown merino gown with a plain skirt. It was taken from that woman, after it was dyed, by the police and labelled, and you have it there. A name is given—a false name, as I say—for my case is that it was the prisoner who took it to the dyer. M'Donald is the name given.

But there is something else left with the same gown, and by the same person, as if to make sure of the person who left the gown, and what is that? Gentlemen, it is a grey cloak of the prisoner's to clean. There is no doubt about that. She is shown that. Her declaration admits it entirely. And though, when we have it now—for it, too, was taken from Miss M'Crone—it wants the tassels, and that is explained by Miss M'Crone—the tassels were taken off, and the tassels were handed back. Have you not this proved sufficiently, unmistakably, that a plain-skirted brown merino gown was taken to the dyer? And then, gentlemen, there wants but one other step, and you have the last link of the evidence supplied. The fellow-servants of Jessie M'Pherson, Mrs. M'Innes or M'Lachlan and Mary Downie, knew it perfectly—they had seen it before often. They had no difficulty in saying that it was Jessie M'Pherson's gown. Now, gentlemen,

that is upon the Saturday, and she had not that gown on on Friday night when she went out; and she must have been at Sandyford Place to get that gown, which belongs to Jessie M'Pherson. I shall consider afterwards what becomes of her own brown merino gown; that belongs to another part of the evidence. The other dresses of Jessie M'Pherson—what about them? And here, gentlemen, I admit—and it is no harm to my case to concede—that there is a good deal of complication in tracing the other dresses of Jessie M'Pherson. But are not they traced? You will judge. The history of this part depends upon the history of the japanned tin box. Mr. Gifford

It is bought by the prisoner on Saturday, the 5th July. You have the evidence of the ironmonger, Fullerton, who was present when it was purchased by the prisoner. Fullerton tells you what she did. She bought the box for 4s. 6d.—that, I think, was the price—and what did she then do? She put a bundle into the box she purchased, bought a padlock and key, locked the box, and left it in the ironmongers, stating that she would call back for it on that same afternoon. Before doing so, however, she got an address put upon the box—"Mrs. Darnley, Edinburgh—to lie till called for." She did not call again on that Saturday. She had a great deal to do that Saturday. It was quite clear that it was hard work with her that Saturday. It is not for some days afterwards, on the Tuesday or Wednesday next week, that she goes back. The address is changed, and the address is now "Mrs. Darnley, Ayr—to be left till called for." There is now the question how it got out of the shop to the railway station, where it was next heard of. Whether it was the prisoner who got it, or whether it was received by some one whom she sent, is not clearly ascertained; but that is of no great consequence. The declaration of the prisoner admits that she sent it to the railway station for Ayr. Then you had the evidence of the other witnesses regarding the box, with which, however, I will not tire you by going into detail; but you saw how necessary it was to trace step by step the history of this box. It went first to the Bridge Street, Glasgow, station. The way-bill document speaks for it. Then you have the statement of M'Millan, who says a man came wanting the box back. That man you know now to have been the prisoner's husband. Then you have Blair at Ayr, who speaks as to the box lying at that station, and of its being sent back to Glasgow. Next the clerk at the Glasgow station states that this box came to Glasgow, and a man calls and gets it there. Then you have the next witness, Mrs. Reid; and who handed the box to her? It was the husband. She does not say that she then saw the contents of it, but she says that afterwards, lying in the bed, she found the dresses labelled Nos. 29, 30, and 31,

Mr. Gifford and which, on being shown to her, she identified. She put them into the drawer, and they lay there two or three days, when she saw them put into the box again—the same box. It is given to Laurie, who takes it up to the Greenock station, whence it is despatched to Glasgow. We have the way-bill again, and we have it next in the keeping of M'Intyre, who gave it to the police, Mr. M'Call getting it. It is opened, and there the dresses labelled Nos. 29, 30, and 31 are found.

Whose dresses are these? Jessie M'Pherson's. That is again demonstrated beyond the possibility of dispute by the evidence of Mrs. M'Innes or M'Lachlan and Mary Downie, the witnesses you saw last night. It is impossible to doubt them. Mary Downie tells you the whole history of them. She knew every stitch of clothing her partner in trade had. She could tell you where the dresses were bought, when they were bought, and where they came from. Well, these dresses are brought home to the prisoner, if you think that evidence is sufficient, and I think there is no doubt about it. No doubt there is a possibility of some foul conspiracy having taken place to change the dresses—that the box had been broken open at the railway station and the dresses taken out and these put in their place. But are you to suppose that? The manner in which things are usually done must be regarded, so that I think the dresses are sufficiently identified as those which were put by the prisoner into the box she bought in Fullerton's shop on the Saturday. How did the prisoner become possessed of them? Her declarations tell that. We may find some contradiction there. The prisoner at one time says that she never saw them, and again she says she got them from M'Pherson. Now, Jessie M'Pherson's room is emptied of everything, and, on inquiring into what had been left behind in dress or money by a frugal woman such as the deceased, we find nothing but an empty trunk with marks of bloody hands upon it; and her most valuable dresses found in the possession of the prisoner, who would tell us that she got them from the murdered woman.

But, gentlemen, that is only one-half of the evidence. What became of the prisoner's own clothes, and here we have the history of another box equally well identified, even better perhaps than the other box, although in both cases the evidence is ample. The prisoner had a black leather box. Mrs. Campbell knew it. Sarah Adams knew it, and Mrs. Adams, I think. She was shown it and identified it. At all events, it is not disputed but that the box produced is it. And what does she do on that Saturday? All the material elements of the case are on that Saturday. She is seen with a black leather box on that morning. Then we have it in the cellar. What is she doing there with it? Sarah Adams is not

to come in and see. She is told to pass by the door, and then to come in when it was tied up. Sarah had called to see her, and while there the prisoner, after writing an address, went down to the cellar with a hammer, either perhaps to nail up the box or to nail on the address. And then Sarah is called in and asked if she would carry this box to the Hamilton station of the railway. "If it is not too heavy," says the little girl. She tries it, and says she will be able. Now, about the address upon that box. Sarah can't read writing, but the clerk of the railway tells us what it was—"Mrs. Bain, Hamilton—to lie till called for." Strange circumstance it is that this woman should on that Saturday be sending hither and thither parcels "to lie till called for." Who is "Mrs. Bain"? There is no such person. She pretends now it is a Mrs. Shaw. Who is "Darnley, Ayr"? No such persons that we know of exist. No such persons can be found. The prisoner has not produced them. Yes; these parcels were "to lie till called for," out of the way at all hazards, the one at one railway station, the other at another; and if it cannot lie there let it lie snugly in the ironmonger's shop. Mr. Gifford

Well, Sarah Adams carries over the black box. She is told not to tell anybody where she came from. She got minute directions which way to go. But, it is said, Sarah Adams once told a lie, and you are not to believe her. She is only twelve years of age. It was two years ago—the exact date was not given us—when she was formally examined in some process between two women. Now, gentlemen, I leave that matter in your hands. You heard that little girl tell you that she had told a lie, and that she had been induced to do so by one of the parties on her being promised something if she would, and then she tells you how she was corrected by her mother, and sent back to tell the truth; and she is here and tells that story with tears in her eyes. Do you believe her now in the story she is telling? But her story does not rest entirely on her; there is a confirmation of it from an unexpected quarter. Why, the black box is there! We trace its progress from place to place. We have a confirmation of that girl's story in the clerk of the railway, Barclay. We have it in the clerk at Hamilton. We have it in Mrs. Chassels and in James Chassels. We have it at the Hamilton saddler's, by whom it was given up to the police. We have the prisoner inquiring after it, and Barclay recognises her at the railway station, where she goes and asks for the box. Yes, and she gets her answer. At Hamilton what takes place? And here, gentlemen, I think you trace the steps of the prisoner again, just as you did that Saturday—this is the next week—just as you did that Saturday when she went out, from place to place shifting her dress, pawning the plate, getting her gown redeemed from pawn, and going to the

Mr. Gifford dyer's, and so on. You trace her here in the same way. The first thing she asks at Mrs. Chassels is for a boy or some one to go to the railway station to help her with that black box. The boy James Chassels goes with her, and they get that black box, and it is taken to Mrs. Chassels'. Nobody sees it opened there. She is there some time; she enters the house without a bundle, and leaves it with one. It is distinctly noticed when she goes out. The box is taken empty to the saddler's, and is empty when found there by the police.

But that mysterious bundle, which contains the articles formerly in the trunk, is taken away by the prisoner. The box, the prisoner's declaration says, went empty, and was sent empty. It weighs 21 lbs. when it is sent away from the railway station at Glasgow, and when weighed empty it weighs only 12 lbs. There was 9 lbs. weight of articles taken out of it. That is the bundle. What did it consist of? Did you not trace that unfortunate woman up that road, step by step, up to Low Waters, where she finds Mrs. Gibson? She is wearied both in mind and body, and, I dare say, tired enough. She asks for half a glass of spirits, getting, however, from Mrs. Gibson a whole glass, the signs of weariness being so remarkable even to her. James Gibson, the husband, sees her; his daughter, Margaret Gibson, and the other little girl, Marion Fairley, see her; and the prisoner asks them the road to a burn to get a drink of water, for that she had neither seen a burn nor a sheugh during her long, weary day's walk. They direct her to Tommy Linn Park, and see her go in that direction. These two same little girls in that park find after that—the exact day is not fixed, the minds of these little girls not being able to fix the exact date—the bloody clothes. There was the petticoat in shreds, labelled No. 20. By the 17th July the officers are scouring the country and the neighbourhood of Hamilton, and at length Daniel Stewart picks up that bloody petticoat, which is labelled, and identified as that of the prisoner. There is no doubt of it, for Mrs. Adams knows it—Sarah Adams knows it. She says she saw her own sewing upon it. It is of a thick, peculiar texture, and was made out of half a blanket. But this is not all. About the same place the wincey petticoat was found. It is impossible to say whether it was originally upon the road, or taken out of the hedge, or scattered by some animal. It is labelled No. 21, and it is identified as the prisoner's. Mrs. Campbell, Mrs. Black, and Sarah Adams all speak to it. There may be doubt about it, for wincey petticoats may be alike; but you will judge whether it was the prisoner's petticoat. In another field was found a merino dress. Ay, this is the flounced dress which disappeared that Friday night. That night she went out with it, but she came home with

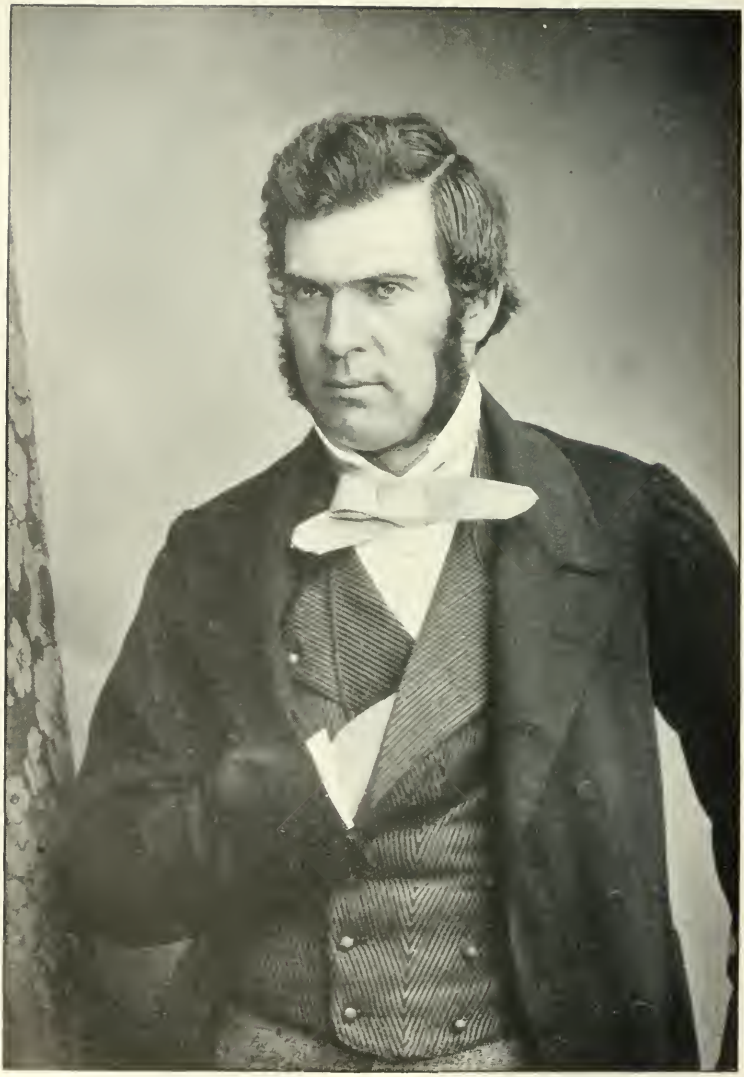
another. These witnesses know this dress, which was found to be the prisoner's, by the flounces which it had. Mr. Gifford

But there is evidence of it besides in the detached sleeve which was found in the prisoner's house, labelled No. 23. It was found by the same officers; it is of the same stuff, it has the same lining, it is the sleeve of that gown. Where is the prisoner's merino dress if that is not it? The officers search again, and they find another bloody petticoat, labelled No. 24, in Hollandbush. Whose petticoat is it? for it is not the prisoner's petticoat; the witnesses who identified the other articles do not know it. But Mary Downie, who knew the deceased, identifies is as the petticoat of her deceased friend. We thus have the blood-stained clothing of the prisoner and of the murdered woman. You will judge by the evidence if they had been placed there by the prisoner. Why? She was with the deceased that night. Jessie M'Pherson lay upon her face when found, and while she was in that position the iron chopper, or an instrument like that, was wielded upon her body with fearful effect by a person standing over her, so that blood flowed in torrents—clothes were blood-stained, and it was necessary to dispose of the bloody clothes. Is there any doubt about the marks upon the clothes being blood? You have heard the opinion of Professor Penny upon that point, and though there is a doubt whether it is human blood or not, there is no doubt that it is the blood of a mammalian creature. As to the wires, the prisoner said that they had been pushed into the fire by her little boy. She gave the wires away to Mrs. Adams, but there is blood upon these wires, and burning has not expunged it. There was no need to take them to Hamilton—the fire would purify them. But, gentlemen, it takes a hot fire to purge a crime. The wires told what they saw of this deed. These wires, says Professor Penny, are blood stained; and they are the prisoner's. Such is a brief outline of the testimony of these clothes.

Was there a louder, shriller, more dreadful tale ever told by clothes? Bloody clothes are often shown in Courts of justice; never, perhaps, before—at least I may say very seldom—has a tale like this been told by such clothes as you have seen exhibited before you during this long trial. They are circumstances of evidence which point out the guilt of the prisoner. We can do nothing—and it is a dreadful truth—that does not leave its impress behind for good or for evil, for a blessing or a curse. Our footprints are left. In whatever we do the trace of our actions, good or bad, have life, and they will testify for or against us. And crimes have always left their footprints. In Jessie M'Pherson's bedroom, gentlemen, there are bloody footprints. Whose are these footprints? I have heard it said—it is a poetical fancy—that the eye of the murdered person

Mr. Gifford retains upon its retina a picture of the murderer. It is no poetical fancy, but a wonderful fact. The neighbourhood of the murdered body retains the impress of the murderer; the bloody footprints are there. They are not those of the deceased. You heard the medical evidence and the evidence of the officers on this point. The officers say that the footprints are smaller than those which could have been left by the deceased. Dr. Macleod—a gentleman skilled in such matters—gives similar testimony. They must be the footprints of her murderer. Are they the footprints of James Fleming? Dr. Macleod says "No," for Fleming's foot is broader and longer in every way, and that it is flat. He says that the footprints are very like such as would be made by the prisoner. It was the first impression of Dr. Macleod that it was a woman's foot that had made the impress; and his first impression becomes a fixed conviction afterwards, that the footprint was made by a woman having a rather small foot, with a high instep. That is to say, he looked at the impressions, examined and measured them—and, indeed, did all that he thought necessary to satisfy himself whether these marks were made by the foot of the prisoner or by that of Mr. James Fleming. It must therefore be apparent that the marks were not made by Mr. Fleming's foot, or by the foot of deceased. There has been no suggestion of anybody else. The prisoner—the party who had all the bloody clothes in her possession—the party who had the plate in her possession—the party who came away that Saturday morning wearing Jessie M'Pherson's gown—it must have been her foot that made these impressions. It is circumstantial evidence, gentlemen, but strong, you see, when you put the several circumstances together.

I do not want to press points of detail, but they have some little importance. Mrs. Fraser got a glass of rum—a very trifling circumstance, but trifles are very often indicative of important facts. She got a glass of rum from the prisoner that night. That was in Mrs. Campbell's kitchen, where there was a bottle of it. Was that bottle taken away by the prisoner that night? Mrs. Campbell did not say that, but she missed it next morning, and she had not seen it since. Well, there is a bottle found in Sandyford Place house, in the low flat of it, and that bottle has the smell of rum; and the officer who found it tasted it, and was satisfied that it contained rum. It is not a very uncommon bottle. You have it here. I dare say there are many such; but the circumstance of rum being in it, the missing of it by Mrs. Campbell, the finding of it in Sandyford Place, are all circumstances requiring to be laid together to arrive at the truth. None of these circumstances alone by itself is perhaps entitled to much weight, but, taken together, they form a very important chain of evidence.



Mr. Andrew Rutherfurd Clark, Senior Counsel for the Defence.
(*From a contemporary photograph.*)

Then as to the motive for the murder. It was said that the prisoner got money from her friends. I know not what she got, but there is evidence of her poverty. On the 4th of July she must have had no money, for she could not go out without pawning an article of furniture. Then her husband's watch, coat, vest, trousers, and ring were all pawned, and she had forty-one pawn tickets in her possession. When Mrs. Adams got money to lift something she used a jocular expression, which, although jocular, contained, alas! a great deal of truth. I do not mention this as a proof of robbery; I only allude to it to show the prisoner's poverty. The next day she had money. Things are relieved; watch and clothes are brought back. She buys new articles of clothing. There is no trace of her old bonnet; it was never seen by a human eye. She had also money before she was in Lundie's pawn. She paid £4 of rent before twelve o'clock. What I have to say is, it is not unlikely that Jessie M'Pherson, a saving, industrious woman, had money in her trunk. I do not charge the pannel with having stolen money—— **Mr. Gifford**

Mr. Clark—She is not charged with stealing money.

Mr. Gifford—I do not charge her with it; but I say this is an element which you must take into account if you found there was any probability that Jessie M'Pherson had money besides dresses.

Gentlemen, I have sketched briefly the history of this murder. I have, I know, omitted many points. I will not dwell upon the contradictions of the prisoner's declarations. I do not ask you to convict upon lying declarations. You have the story told by the facts, by the articles produced, which need not the lies of the prisoner to enforce belief upon you. I therefore ask from you a verdict—for I contend that the evidence which has been laid before you is sufficient—amply sufficient—to convict the prisoner at the bar. I say nothing of the peculiar manner in which this murder has been attempted to be explained. You will weigh everything upon the evidence, and leave nothing to be determined without proof. I make no appeal to your feelings. May the Omniscient and Almighty God give you grace and wisdom to return according to your oaths a true verdict upon the evidence.

Mr. Clark's Address to the Jury.

Mr. Clark then addressed the jury as follows:— **Mr. Clark**

Gentlemen of the jury, my learned friend the Advocate-depute complained that he was labouring under a sense of great responsibility, and under a feeling of deep anxiety, when he stated to you the case on behalf of the prosecution. If,

Mr. Clark in discharging that duty, he felt he was labouring under that responsibility and under that anxiety, I dare say you will understand, in some respect, the much greater anxiety and much greater responsibility which I must necessarily have in endeavouring to discharge, so far as my feeble abilities serve me, the most responsible duty and the most anxious task which can devolve upon any member of the profession to which I have the honour to belong. And, gentlemen, I must now set myself to state to you what occurs to me on behalf of the prisoner who is arraigned upon this charge, and to state, to you on her behalf, the observations which occur to me upon the evidence as leading to the conclusion to which I wish to bring you—that the charge has not been proven. I feel conscious that in endeavouring to discharge that duty I must come very far short, indeed, of discharging it. I must trust to your consideration of the case to supply those numerous defects which must necessarily exist in my statement.

Gentlemen, I feel increased anxiety with regard to this matter in consequence of the history of this case, and the notice which it has already received in the public Press. Day after day, and week after week, the details of this tragedy were printed in the newspapers, and circulated widely in the neighbourhood, and there could not but be an impression created in the minds of the public which might more or less prejudice the prisoner, and might even lead to her case being prejudged. I beg of you—for that impression must have reached you to some extent—to endeavour to throw it aside. I know how difficult it must be for you to do so, however zealous you may be—and I know you will be zealous in discharging the great responsibility that lies upon you.

I really must call upon you to mistrust even your own judgment in the matter, so wide has been the circulation of all the evidence which, it was affirmed, told against the prisoner, without any other evidence being brought before the public which was in her favour. With these observations, gentlemen, I now proceed to bring under your notice the evidence which has been laid before you in the course of these last three days. And I will endeavour to efface the impression which the powerful speech of the Advocate-depute must necessarily have created in your minds. I think I will be able to show you that, in his own language, this case is a mystery—is a mystery still, which all the evidence which you have heard during the long and protracted trial has not unveiled. That evidence may lead to suspicions, and your suspicions may more or less rest somewhere. The prisoner may be suspected, another may also be suspected, or thought to be the murderer. But, so far as the prisoner is concerned, I think I will be able to show you that all the

evidence brought against her cannot lead to that positive certainty of guilt which must exist in the minds of all of you, before a verdict of guilty can be brought against her by all of you or any of you. Mr. Clark

Gentlemen, consider what the charge in the indictment is. It is a charge not of an ordinary murder. It is not a murder caused by a blow given in the heat of passion. It is not a murder committed in a struggle that had arisen between two persons who had been hostile to each other before. That is not the kind of case which the Advocate-depute has stated and says he has proved. But to speak in his own language, he charges the murder of Jessie M'Pherson against her own most intimate, most kind, most dear friend. He says that upon that night—that Friday night or the Saturday morning—that weak and delicate woman, who for long years has been ailing ever since she was confined—that weak and delicate woman had stood over her friend, and wielded against her that instrument which, he says, was the instrument by which Jessie M'Pherson met her death. Is it possible, gentlemen, for you to believe that statement? Is it possible for you to think that all the evidence which has been laid before you during the course of the trial can make you credit such a fearful story as that? You are called on to believe that the prisoner's motive for committing this crime was the obtaining possession of a few old dresses and some plate to raise money, and that for these she forgot her friendship and forgot her love for the murdered woman. You are asked to believe that with no other object she inflicted those fearful wounds which have been described to you, and stood over and mangled the body of her dearest friend. Scarcely any evidence could lead us to credit—scarcely any evidence could prove such a statement—and certainly it is not proved by all the evidence which, circumstantial and otherwise, has been adduced, and upon which my friend alone asks for a verdict against the prisoner.

It may be that circumstantial evidence is sufficient in some cases; but I have heard for the first time that evidence of that kind is to be relied on, and received as conclusive of the guilt of the accused, when it has failed to develop and explain the whole mystery of the dark cloud which hangs over the tragedy which was enacted in Sandyford Place. Circumstantial evidence, gentlemen—evidence of great strength—is evidence on which many a culprit has been convicted. But it has been evidence of a kind which has laid bare all the facts which were important for juries to know, circumstantial evidence of the kind which has explained the mystery, and clearly shown the accused to have been the murderer, without any mystery yet left to be explained or to be accounted for.

Mr. Clark And, gentlemen, I think I might refer in this matter to an occurrence which is well worth for you to keep in view—a case which actually occurred in the annals of this country only a few months ago. I have the case lying before me on the table, reported in the books.[1] Three persons were charged together with having committed rape, and they were identified. There was not circumstantial evidence only, but there was identification also and declarations, the inconsistency of which was relied upon; and the jury, following the charge of the judge, returned a verdict of guilty against one person, George Davidson, whose case is reported here. Gentlemen, that person was convicted by a unanimous verdict on evidence which appears to have satisfied the jury and satisfied the judge, and he was sentenced to twenty-one years' penal servitude. A month or two elapsed, and time revealed that the whole was an utter mistake; and he who had been convicted in the manner I have described was found to be perfectly innocent of the charge of which he was accused, and received on that ground a free pardon. I only ask you to keep that before you, as showing you how prone we are all to error, and how that evidence which may appear to be convincing is, after all, not so. And, gentlemen, if the charge had been that which is made in this indictment, and the discovery of the innocence of the accused had not been made till after the time when George Davidson's innocence was ascertained, it would have been past human power to repair in any degree the error which had been committed, and an innocent person would have perished on the gallows.

Gentlemen, that case occurred within ten months back. I mention it to show you how little one can rely upon circumstantial evidence which is not clear, strong, and consistent in every respect, and not only strong, clear, and consistent, but such as explains away every mystery which exists.

Gentlemen, it is not easy to reach the conclusion that the pannel is guilty of a crime which is imputed to her—a crime of this horrible atrocity—a crime so unlikely that she could have committed it—unless every mystery is removed, and unless her guilt is demonstrated in the clearest evidence. But my friend the Advocate-depute tells you how he accounts for her committing this crime. She was pressed by poverty, and he proved her poverty—her husband being a man who is in the receipt of 30s. a week, and giving her his wages, as well as her brother giving her his wages when he happened to be in the country. He proved her poverty by some circumstances upon which he relied, and the intention was to show that she

1 *James Reid, George Davidson, and George M'Neill*, High Court, December 9, 1861, Irvine, vol. iv. p. 125.—Ed.

had raised the money which paid her rent by the pawning of the plate, of which I am to speak. Gentlemen, that was disproved. The Crown did not know that fact—the Crown did not notice the fact that the money by which she paid her rent on Saturday, the 5th July, was money which was not raised by pawning that plate, because the rent was paid before the plate could have been pawned. I confess, gentlemen, my amazement when the Advocate-depute was driven conclusively out of that suggestion by evidence which he himself had led; that he should have resorted, for the purpose of explaining that mystery, to a mere insinuation which he had not made matter of open charge, that he should have insinuated that, in addition to those articles that are charged on the indictment, and of which alone the prisoner had notice, that she had committed the theft of some £4 from the trunk of Jessie M'Pherson, of which money we have not the slightest evidence, the existence of which money depends merely upon the insinuation of the prosecutor—an insinuation which he did not even attempt to prove, and of which he did not give any notice. But, gentlemen, even if he could prove it, he could not have proved it—he could not have proved the separate crime of the theft, as has been laid down in a variety of cases, without giving the prisoner notice of the fact. But, gentlemen, I do complain that when the only theory on which he explains this foul murder—the only motive which he in reality assigns—is disproved by facts which he has adduced, it should be made to depend not upon the matters which he has proved, but upon matters which he himself has alone insinuated. Mr. Clark

Now, gentlemen, I think we have no motive assigned, but something insinuated, which must be thrown to the winds, for the consideration of this crime. Is it likely, in the circumstances in which this crime was committed—is it in the least degree consistent with likelihood that the prisoner was the murderer of her own friend? Just consider the circumstances which we certainly have traced in the course of our long inquiry. These you must keep in view in deciding this question. The murder is committed in Mr. Fleming's house while he is present, and when, according to the prosecutor's case, the prisoner must have known that he was in his house. The murder is committed when he is present, and the murder is committed in such a way as to show you, according to the statement of the doctors who have been examined—I mean Dr. Fleming and Dr. Macleod—in a way which shows that there had been a severe conflict between the person who committed the murder and the deceased. We have evidence, at all events, of the existence of strife, even on the evidence which Fleming himself gives, and to which I shall immediately speak; but the doctors tell you that there was evidence of a severe conflict. And

Mr. Clark what my learned friend says is this, that the person who had stood over the body of a friend, mangling it with that weapon, having committed the bloody deed by the infliction of upwards of forty wounds, and having done that in a house in which she knew that a person was living, and after a severe conflict between herself and the deceased, that, instead of going away from the house as fast as she could get, that there might be the fewer traces of the guilty deed which she committed, she stayed apparently in that house until a little before nine o'clock in the morning, washing at the floor, and washing the dead body—all these circumstances are said to be consistent with the prisoner's guilt. Is that a conceivable proposition, that a person having committed, after a great conflict, a severe conflict, a murder in this house, would have remained for hours, it may be, and I think it must be, if she, according to the prosecutor's theory, did not reach home till nine o'clock in the morning—that she would remain hours washing out the traces of the crime from the kitchen where it had existed, rubbing out or washing out the traces of the crime from the lobby, and washing out some blood, a considerable portion of blood even in the bedroom? All these things are part of the prosecutor's case; and I want you to consider whether it is possible that this can be consistent with the prisoner being the person who committed that crime—and committed that crime according to the prosecutor's theory, as he has explained his case to you, unaided and unseen. He doesn't assert that Mr. Fleming was in any other position than in his bed, as he says, during that night; and, therefore, the account which he gives of the case is such as I have represented, and that is the case which he wishes you to believe.

Aye, and having been so much pressed for money, as he says she was, as to lead her to the commission of this fearful offence, what does she take? Only some plate and some clothing. Not the whole clothing. All that we hear of is the taking of some articles of plate which are said to be all the plate in use in the open drawer, and some dresses which belonged to a friend, but could not have been all her clothing. And if she could have waited to wash up the traces of her crime, as the prosecutor asserts, and her object had been plunder, how is it that these articles which he libels as having been taken by her after the commission of that offence are so few —that she did not take the other articles which must have existed in the house, and which she must have been wanting if her object was plunder? And, further, there was not one of these articles which she is said to have removed after the commission of the offence stained with blood—not one of them, I say, has been proved to have been stained with any blood whatever. My friend the Advocate-depute says that

bloody hands had taken these articles out of the trunk which was in the kitchen. Now, if this had been the case, the skill of my friend Dr. Penny would have detected the marks of blood upon the articles. But it has not been so, and therefore, gentlemen, I think it is incredible to believe that a person who contemplated murder, whose only motive for murder was plunder, would have acted in the way in which the prisoner is said to have acted—would have remained to have washed out the traces of the blood and at the same time have contented herself with the few articles which she is charged with having taken. Mr. Clark

Now, gentlemen, these are the leading features of this case as they present themselves, apart altogether from the evidence by which the prisoner is said to be proved guilty of that crime which, I say, is one of the most unparalleled and unprecedented that ever was heard of—a case of all others the most difficult to prove. I say, gentlemen, it is altogether impossible to believe that for the purpose of obtaining a few pounds this woman would have committed such a frightful crime—this weak, frail woman, labouring under sickness for some time, could have struck down in that ferocious and horrible manner her dearest friend.

Now, let us see what are the facts on which the public prosecutor relies for tracing the guilt of this prisoner. I shall refer to it without alluding to the declarations of which you have heard me speak to-day, and which the Advocate-depute said he did not care about, and yet to which he constantly, and in almost every sentence, referred. Let us see what is the evidence on which this matter depends. She never was seen near the house in the course of that night. She was seen at the Gushet House, which, at all events, is ten minutes or a quarter of an hour's walk from Sandyford Place; and the Advocate-depute was candid enough to admit that the statement you received from the witness Mary Adams, that the prisoner said she was going to see Jessie M'Pherson, would not sustain the theory of premeditated plunder.

Nor will that statement entitle you to infer that she was present in the house that night. But let us see upon what the prosecutor relies for proving her presence in it. A bottle is one part of the evidence—a common pint bottle, in which there had been some rum, which had been put aside into a common press, as the witness, Audley Thomson, told you, beside a great many other bottles. Surely that is very slight evidence to resort to? The bottle has no peculiarity. It was not seen taken by the prisoner. The absence of the bottle from Mrs. Campbell's house was not discovered until Monday, the 7th, and she did not pretend to identify the bottle in any respect. There was the lodger in Mrs. Campbell's

Mr. Clark house, whose evidence we have not in this matter, and which, I think, certainly the Crown ought to have advanced if they had pleased. Now, gentlemen, the prisoner is out all night according to the statement of the Crown. That is not very well proved either. There is no doubt that there are some inconsistencies in the declarations as compared with the evidence which has been put before you. Mrs. Campbell says she went out at ten o'clock, and that she did not return until nine o'clock in the morning; and the prosecutor again refers to the declarations in which it is alleged that she was in at night. Mrs. Campbell does not know but what she had a latch key. The lock was an ordinary one, and it may be that she had some key which opened it, or it may be that she was let in by the assistance of John M'Donald, who was living in the house at that time. In the absence of his testimony, which the Crown could have procured if necessary, it is impossible that the single statement made by Mrs. Campbell —without at all impeaching her honesty—that the prisoner was not in the house at five o'clock, and that she let her in at nine o'clock, can be relied upon as conclusive.

Another matter to which I have to refer, and to which my friend Mr. Gifford referred in rather a poetical way, is the footmarks. There were three footmarks on these boards, but only two have been produced. I cannot tell why. There was only one person who made the comparison of these footmarks, and he does not say how he compared them. He does not say that he had put the foot and the footmarks together. All he says is that he compared them, but he does not tell how. All he says is that the footprints might have been made by a foot such as the prisoner had. And are you to found on that? I believe Dr. Macleod is not stating anything but what he thinks is the truth on the matter, but yet, like other men, he is not infallible. But we have between his observations and Dr. Watson's a most singular contradiction, which, I think, entitles me to say that the evidence of Dr. Macleod cannot be received with the same weight when we find that he omits from the report of the injuries which the unfortunate woman had received—what Dr. Watson describes as a remarkable bruise on the lower part of the spine. But all you have on this matter of the footprints is Dr. Macleod's statement, and he thinks they might have been made by the prisoner's foot. That is all the evidence he has given on the subject. And therefore, gentlemen, I think that in the absence especially of the other footprint which we ought to have had here, and in the absence of any corroboration of Dr. Macleod, which might easily have been here; in the absence of any clear proof that these footmarks were absolutely identical with the prisoner's, it is impossible

to lay very much stress on the circumstances said to establish that she was present in that house. Mr. Clark

But let us see some of the other facts on which my friend relies for establishing—be it observed—that she was present in the house. I am speaking now of the matter of the plate. The plate, it is said, was pawned on Saturday morning, and it was in the house as late as nine o'clock on Friday morning. It was pawned by the prisoner, according to the Crown, about half-past twelve on Saturday, so that, says my friend the Advocate-depute, is conclusive proof of the theft; and not only conclusive proof of the theft, but of the circumstance that the prisoner was in the house at the time. And why? The only proof of the theft, and the only proof that she was in the house with the plate on the Friday night, just consists in this, that she is contradicted in this matter by Mr. James Fleming. Now, unless you believe James Fleming's evidence, and can trust to every particular of that evidence—can believe the strange story which he told, and which I shall again have to comment on—there is nothing whatever to imply that in pawning that plate the prisoner was either guilty of theft or that she was in Fleming's house on the Friday night. She says she got it from Fleming, and even accused as she is, I think I would believe her word sooner than the word of Fleming, whom you have heard examined, and whose evidence was not of the character to command respect.

And what are the other things through which the prisoner is said to have been in that house? Why this, that she is in possession of some of Jessie M'Pherson's clothes. These clothes of Jessie M'Pherson are not proved to have been in the house recently, unless, again, there may be some reference to that in the declarations as to some of them. My friend says she went out with a brown gown of her own and returned with Jessie M'Pherson's gown on her back to her own house next morning. That the prisoner disputes; and when Mrs. Campbell, who saw the prisoner come in, was examined about the gown—the gown that was dyed—she says the prisoner had on a different gown on Saturday morning from the gown she had on on the Friday evening; but on looking to the gown, she frankly admits that the gown was not trimmed in the same manner as the gown which she saw the prisoner wear on that Saturday morning. It is told you that she returned with a gown. Mrs. Campbell, whose evidence was given in such a way as to entitle it to respect from all, is given to the effect that she was not aware that the gown she wore was differently trimmed, and the prosecutor tells you that this circumstance shows to you that she was present in the house that night. The other articles are articles of dress of Jessie M'Pherson which, he says, he

Mr. Clark has traced to her, founding triumphantly upon her declaration. Again, you are not to presume that because she may have been proved to have been in possession of these articles on the Saturday morning that she necessarily got them on the Friday night at Sandyford Place. That is a great inference to draw. She may have got them on the Friday night, but she may have got them without being present in Sandyford Place, without being present when the murder was committed at all. Think, in the first place, how the witnesses' identifications are to be distrusted in the proving of the box which was sent round from all these different railway stations. Do you remember the evidence of the witness, Mr. Smith Dunlop, when he was examined in the box. He was going to leave the witness-box with the impression that the box which was shown him was the identical box which the person had been speaking about when the person was in the shop on Wednesday, the 9th. But could he ultimately say that it was the box which had been got in his premises, and of which he had no recollection whatever? Yet he was prepared at first to identify it and speak of it as the very box which the prisoner had got, and yet we have it traced to different railway stations, we have it broken up, and it is said that these dresses were in the box. That is not proved by a particle of evidence which is laid before you, because we have the box going to the railway station without being broken—it is broken before we see it again; and these railway officials speak merely to the transit of the box without the particular dresses; but they do not speak of the box in which it is said that on Saturday the prisoner deposited a certain bundle. Then Blair tells you about the box, and tells you that it had an overlock. But, whatever the box contained when it was passing along these railways at that time, I maintain that it is not proved by evidence to have contained these articles. And again, upon that matter, the prosecutor has to resort to the prisoner's declaration upon this matter too, and points first to a series of questions, in which she is asked about a variety of articles and not shown them; and then they are suddenly produced against her, and then he says she contradicts herself. That is the way the prosecutor deals with her declaration. But, even supposing these articles to have been hers, and to have been traced to the prisoner, it has not been stated that she was at the house in Sandyford Place on the Friday night. She might have got them without being there. It is perfectly reasonable to suppose that she should; and surely, in such a case as this, nothing whatever could be made matter of inference and assumption unless it is absolutely necessarily inference and necessarily assumption.

Now, gentlemen, another matter is strangely founded on by

the prosecutor, and that, I think, is about the last by which he proposes to establish, by what he calls a chain of circumstantial evidence, and almost to your satisfaction, that the prisoner was in Sandyford Place that night. It is those clothes which are found at Hamilton, and his case is this: they are put into that black box which Sarah Adams took to the railway station, and which the prisoner followed on Tuesday to Hamilton, where she was seen with a box and bundle, and where she was seen near a place where afterwards certain articles were found. Now, the proof against the prisoner on that point depends entirely upon this: are you satisfied with the identification which these articles have received? That is one part. They are not proved to have been in the prisoner's custody. They are not found in her custody; but certain rags are picked up on the highway or in some other parts near Hamilton and near Low Waters, populous places, and they are said to be part of the prisoner's dress. Now, what proves that statement? Mrs. Campbell did not swear that any one of them belonged to the prisoner. She, her lodger, who is living with her, declines to identify those rags, and to say that they must be the prisoner's, and could be no others; because you must keep in view that what identification means is not that they were likely to be prisoner's, but that they were the prisoner's and no others, and could not be another person's. But there are two witnesses who are said to have identified these articles, and let us see what it is that they propose to identify. Two witnesses—one of whom admits that on a former occasion when she was examined she told a lie, and who is the daughter of the other woman, who had quarrelled with the prisoner, and had got her daughter examined—they swear that they can identify these shreds as a petticoat, and, not only that they can identify these shreds as a petticoat, but that they can positively assert it to be a petticoat of the prisoner; and Sarah Adams speaks to one or two stitches which she says she made a considerable time before—May, 1862. Upon what strong links does the prosecutor hang his chain of circumstantial evidence when he says that you are, in a case of this fearful atrocity—in a case of life and death—to believe that these articles which I now hold in my hands—these shreds and patches—were one and all of them parts of a petticoat which belonged to the prisoner? I defy any person to tell with certainty—I mean with the certainty which alone is important in cases of this kind—that that was a petticoat which belonged to the prisoner, or to be able to say more than that it is a piece of flannel which is stained with blood. Again, gentlemen, look at these rags of a wincey petticoat, of which they speak with equal certainty. They say that that is the prisoner's, without telling you how

Mr. Clark

Mr. Clark they know. They say they identify it. Can you believe that they can identify that as the prisoner's, or can you believe they can identify these rags of a gown, and that you are entitled to jump to the conclusion to which Mrs. M'Gregor jumped when in the box, that because a sleeve of the same material is found in the prisoner's house, that must necessarily be the sleeve of the gown which was found near Hamilton? Gentlemen, that observation of Mrs. M'Gregor's just shows you how these persons, without really intending, it may be, to be dishonest, jumped to conclusions. Hearing of this case, they think they can be no other than the prisoner's; hearing of this case, they proceed to their identification. Do you suppose that if these articles had been found at a place where the prisoner never had been, and which place she never was near, they could have identified these articles or that you could believe and trust to that identification which they give? Gentlemen, circumstantial evidence must depend, surely, upon some far stronger facts than these—far stronger and better evidence than you have from these women—Mrs. Campbell declining identification altogether, the two Adamses, mother and daughter, saying that these articles belonged to the prisoner.

And, gentlemen, there is another somewhat important part of the prosecutor's case. Along with these rags was found another petticoat on which my friend relied, and pathetically told you that it belonged to Jessie M'Pherson, the murdered person. Well, Mary Downie said so, and said that that petticoat—a common flannel petticoat, with no marks whatever—was Jessie M'Pherson's. That was the prosecutor's case with one witness. But when the petticoat was put into Sarah Adams' hands she told you a different story, and told you that it was like a bit of a gown that belonged to the prisoner's sister. Now, is Sarah Adams telling you the truth that this is a petticoat that belonged to the prisoner's sister, and might have been in the possession of the prisoner? Is that the prosecutor's case? One matter of evidence I think I may also notice, and it is that in that box which is supposed to have contained all the bloody clothing there are no marks of blood. Not a trace of blood is found, and the handkerchief in which the articles were, which was said to have been carried by the prisoner, did not conceal what it contained. Mrs. Chassels told you that she saw a flounce of a dress in the parcel which the prisoner had in Hamilton. The flounce is not trimmed in the way in which the coburg is trimmed—the coburg which was found. It might be said by his lordship upon the bench that this is a mistake of Mrs. Chassels; but are you to discredit mistakes to make your chain of evidence complete? Surely a chain of circumstantial evidence cannot be completed and woven into such strength as

to enable you to return a verdict unless there were no mistakes to throw discredit upon such a matter as that. And is the conduct of the prisoner likely or consistent with the conduct of a person going to conceal the evidence of her crime? She does not do the thing stealthily. She might have gone to Hamilton herself and got up that box without being seen; but she goes up to Mrs. Chassels, gets assistance, and takes a walk out that road where these articles were found many days afterwards. She comes back to Hamilton, and the witness Mirrilees Chassels could not undertake to say that she had not even then a bundle with her. There is no evidence to show that she got rid of that bundle. Mr. Clark

And now I will, in the meantime, pass from those pieces of evidence which are directed against the prisoner for the purpose of bringing under your notice certain matters which I think throw greater light upon this mystery than anything which we have yet heard. Gentlemen, the prisoner is not the only person who was, according to the Crown, in suspicious circumstances connected with this matter. The case of the Crown is that James Fleming, although in the house at the time of the murder, and for three days thereafter, is wholly unconnected with that murder. It won't do for my learned friend to say that he was an accomplice. His case is that James Fleming was wholly unconnected with the crime; and the prosecutor relies on the evidence of James Fleming, who himself was at one time in custody upon this charge, and was afterwards liberated, under what circumstances I shall now show you. James Fleming is said to be eighty-seven years of age. It would have been well had that allegation rested on more satisfactory evidence. He himself let out, somewhat unwittingly, in his examination that he is seventy-eight. But, at all events, his faculties are unimpaired. We know, moreover, that, while the prisoner at the bar was on the most friendly terms with the deceased woman, he was not so; but, on the contrary, we have the evidence of Mrs. Smith, who declares that the deceased complained to her of his conduct, that the old man had rendered her life well-nigh insufferable; and that Jessie had a story to tell the witness which she could not tell in the presence of her husband. Gentlemen of the jury, that is something to take with you as to the part which James Fleming played in this extraordinary tragedy. But let us see what James Fleming himself says. He says that at four o'clock on the Saturday morning he was suddenly startled from his sleep by three loud squeals as of a person in great distress in the house. He jumped out of bed, looked at his watch, went in again and slept till about eight, and lay awake till nine, when, and when only, he rose. That was his positive statement in the course of the examination-in-chief. It will be

Mr. Clark in your recollection that he repeated the same statement, the same positive assertion, to me when I commenced my examination-in-cross. The next statement which he made was that he went down to the kitchen after being dressed, after nine, and saw nothing there to attract his attention except that the screen, on which some clothes had been, had fallen on some press or closet off the kitchen. He found the servant absent and the house in this condition, that the back door was locked on the inside, and he could not tell now whether the wicket which opens to the area was snibbed in the inside or not, though he said to the witness M'Call on the Monday that it had been so snibbed on the inside. And then he said that the outer door, by which he would obtain access to the street, was just on the check, and added, "Aye, that was just the way she must have got out."

Now, gentlemen, you must observe that it is very important for Mr. James Fleming to make means by which the party whom he says was in the house and committed the crime emerged out. He does not bar the door in the inside, so as to show that it must have been some person remaining inside, and therefore he arranges the bars, so that the only exit from the house is by the upper door. He says that the first person he spoke to that morning was let in. Now, the first person he spoke to—for I put the question most plainly at the outset, as I hope you will remember—was the girl Brownlie, Mr. Stewart's servant, who, he says, came at eleven to ask the loan of a spade. She came at two, but that does not matter. The important matter with us is as to the person he first spoke to. That, of course, was after the prisoner must have been away from the house, and by nine o'clock, even the getting-up time, the prisoner must have been away from the house. But was Brownlie the first person that James Fleming spoke to? My friend says I began to refresh his memory in the box about the milkman, and he candidly admitted that he spoke to the milkboy. He says the milkboy came at nine o'clock, and that he was not dressed when the milkboy came, and also that he had never been at the kitchen before he was dressed. The bell is rung by the milkboy, and was rung, as the master and boy told you, always a quarter before eight o'clock. The bell is not rung twice, and there was no delay in answering it. Fleming, who had never done this before, answers that bell by opening the door, and the boy, who knew him, saw him at the door. What does he hear? He hears the chain taken off the inside of that door. He says he heard it, and you heard him give his evidence on that point. Every means of egress was secured upon the inside, every person was out of the house except James Fleming, by his own statement. Now,

that is all proved, I think, to demonstration. Gentlemen, I presume these facts were not known to the Crown before Fleming was liberated, or they would not surely, in a case of life or death, have kept back witnesses so material as Paton and M'Quarrie. These statements, if they are true, are inconsistent with any person having gone out of that house, leaving the dead body in, because all the means of egress could not have been shut up in the way in which Fleming describes them. It has devolved on the zealous exertions of those who are engaged in the defence of this prisoner to bring forward this evidence which, upon her behalf, I am compelled to put before you for your consideration. Well, what does Fleming do? He comes down, he says, and noticed nothing remarkable in the kitchen, though there must have been traces of blood on the floor, though there were stains of blood, as Dr. Fleming said, obviously and distinctly, upon several places in the house—remains in the kitchen for three days, taking his meals there, without having his attention directed to any of these things. He knocks at Jessie's door, finds it locked, and then concludes that she has gone out, and for three days expects her instantly to return. He finds blood, which I think he notices upon the Saturday afternoon, on the shirts on the screens which were before the fire. And he tells you that in all these circumstances there was not one which made him think that anything unusual had happened or suggested that he should tell the policeman or even tell a private friend. He saw Sloan, his son's cashier, on the Saturday, and did not tell him. He saw Mr. M'Allister upon the Sunday, and did not tell him. He walked the streets of Glasgow upon the Saturday, Sunday, and Monday, where he must have passed many policemen, and passed many friends. He saw Darnley, who called for Jessie on Saturday, and expressed his desire to see her—repeated his visit on Sunday, still more anxious. Everything is concealed from persons whom he comes in contact with, and he says that not a suspicion of anything wrong ever crossed his mind, that he was expecting the woman every moment back. That is the witness whom the Crown must rely on for their theory in this case.

Mr. Clark

Another very remarkable fact in the Crown's case which came out was this—the kitchen was washed. It was very necessary that the kitchen should be very well redd up in order that Fleming might take his position of being ignorant of what had occurred. If the kitchen had shown such marks as I really think it did, after all, as no human being coming into it could possibly have missed, then Fleming's position is perfectly inexplicable. But, in order that all suspicion or proof of his knowledge of the condition of Jessie M'Pherson, and therefore proof of his guilt should not be apparent, the

Mr. Clark kitchen must be put in order, and the bloody streak, where the body was trailed from the kitchen to the bedroom, must be obliterated. It is washed up, washed up in such a manner as to be totally inconsistent, in my mind, for the reasons I have already urged, with the guilt of the prisoner. The question is, when was it washed up? Dr. Fleming tells you that when he saw the lobby about seven o'clock on the Monday night it appeared to have been washed; that it was moist, and that the floor of the kitchen was moist, and Dr. Fleming was the first doctor that was there except Dr. Watson, who took no particular notice of the state in which the lobby was. The other witnesses no doubt found that the flooring was dry, but they did not see it until about nine o'clock, which only shows how fast the water will dry upon the kitchen floor. What Dr. Fleming tells you was wet at seven o'clock is dry at nine o'clock, and the washing out of the stains of blood upon the floor could not have been on the last occasion on which the prisoner could have been there—I mean on the Saturday morning, three days nearly before these marks were seen. Who washed that blood away? We do not know. We have no person who saw it, but Mr. Fleming tells you that he was during the whole of that period—it is his case—alone in the house, unsuspecting anything wrong whatever. Now, gentlemen, is that a story which you can take off his hands, old man as he is? He has all his faculties entire, so as to be able to see the condition in which things are. He can read without glasses. He can see people well enough in the neighbouring gardens. He must have seen these obvious and distinct blood marks in the kitchen. Surely, gentlemen, you cannot believe that he took all his meals in the kitchen, and noticed blood upon his shirts, without suspecting anything wrong, and without its occurring to him to have the door of the servant's room broken open or picked in some way so as to see what had been the matter. Yet that is the account he gives, and it is said all that is perfectly consistent with innocence. I think it shows, from Fleming's own statement, coupled with the statement which I elicited from that witness who had not been accessible to the Crown, that he was shut in with the body of the murdered woman, that he knew of the murder, and knew of her death when the milkboy came that morning. That he knew of her death is proved by his coming to the door at that hour and taking off the chain when he heard the milkboy there. These matters cannot be explained consistently with his innocence, and surely that would be of itself sufficient to show that there is a case of far graver suspicion attaching to him than to the unfortunate woman at the bar; and I must therefore ask you

to keep these facts in view which were unknown to the Crown at the time when this investigation was conducted. Mr. Clark

And there are certain other matters which I think I should also call your attention to. There was also the stain of blood in Fleming's own room, which must be kept in view. Now, gentlemen, there is one more consideration which I think I must lay before you, for I am forced to bring before you every circumstance which connects Fleming with this awful tragedy. And, suppose I assume that the prosecutor has now proved that Mrs. M'Lachlan, the prisoner, was in the house at the time, will it prove her guilt with these circumstances as against Fleming, who, according to his own account, was with the deceased alone from six that night, while the prisoner could not have come to the house much before half-past ten or thereabouts. Now, supposing she did come to the house—which I am far from assuming—at half-past ten, according to the prosecutor's theory, what awful deed might have been committed by that time! And she came there alone, according to the prosecutor's theory, and found herself alone in presence of that crime. Even supposing that this was the case, are you to assume that she was the guilty person, or was concerned in the frightful murder of a person for whom she entertained the greatest friendship, and between whom and Mr. Fleming there was that disagreement which arose from a cause which Mrs. Smith's evidence pointed at?

Now, in this chain of circumstantial evidence, as it is called, there is nothing consistent with the prisoner's guilt; and yet all the Crown can show is this, that the prisoner was with Mr. Fleming in these circumstances in the house, and the prosecutor calls on you to select one of the two as being the guilty party. He asks you to select the prisoner at the bar—the woman, the friend of the deceased—as the person who would destroy a friend in that savage manner in which I have spoken. Is that theory the most consistent with the evidence led before you, and which, according to my friend, does not raise the curtain from the mystery in which this case is involved? I think a much more plausible theory—even accepting the position of my learned friend—is that she may have found the deed done, and, being in terror at seeing it, that these articles may have been taken away after the deed was done, though it would militate in favour of Mr. Fleming and against the prisoner. And she, a weak woman, found in the presence of that, what else could she do if she were there? You must consider that view, which, I think, is inconsistent, and look to the washing of the wounds, which appears to have been done for the purpose of showing some act of kindness to the injured woman. If there were not two persons there, these wounds, which were not immediately fatal, were washed; but if two were at the

Mr. Clark committal of this crime, is the person likely to commit the crime who would befriend the other? If these wounds were given before the fatal blow, I think it is a man's hand, and not a woman's. At all events, you have this cloud of witnesses here to say that the present has been proved by conclusive evidence to have been one of the most foul and atrocious murders ever committed.

I ask you not to trust much to the declarations of the prisoner. I am not aware how the extraordinary circumstances in which these were taken—the husband examined first, and the wife examined hour after hour by questions being put to her, and statements being forced from her—will be regarded by you. That was the kind of declaration to which the Lord Justice-Clerk Hope alluded, than whom, as I said before, a greater magistrate never sat upon the criminal bench of Scotland, for he was to be trusted in all respects; that was a declaration which, in the case to which I have referred, would not prove the case, for the case was withdrawn and the declaration was not used. Therefore, gentlemen, I hope you will not proceed upon these declarations to convict the prisoner in respect of them, or fail to take notice of the extraordinary circumstances in which she was placed.

Now, gentlemen, I think I have gone over as shortly as I can—and this late hour requires that I should do so shortly—the principal facts which are imported into this case. I will not detain you longer by speaking upon these facts; but I am sure that your careful consideration of them will render that quite unnecessary, and that I may fairly take my leave of you and leave of this case. I am conscious how inadequately I have discharged the duty which has been put upon me; but I trust that you will consider this, that you, and you alone, are the judges of this case; that you, and you alone, must form your opinions upon the evidence which is laid before you; and that you can accept no observations, from whatever quarter they come, except observations which commend themselves to you as consistent, absolutely consistent, with the evidence, and at the same time conclusive of the prisoner's guilt. I say that with you, and with you alone, is the consideration of this evidence and disposal of this case; that on you, and you alone, rests the responsibility of the verdict; that you, and you alone, have the issues of life and of death in this case. And, gentlemen, it is a mere case of circumstantial evidence. It is a mere case of certain inferences to be drawn from isolated facts which are laid before you, and I think you will weigh well whether every chain of that evidence is sufficiently completed to enable you to say with certainty that the positive conviction that happened in the case of *George Davidson* may not happen irretrievably in this. You must be satisfied that

every chain of that evidence is complete, strong, and consistent; and I think you will also reflect that if that cloud of mystery with which this case is enveloped shall ever be lifted up, that chain of facts, that chain of evidence which the prosecutor says is so strong and consistent, might at once be broken and become a rope of sand. I think even in the case of the last witness, Campbell, you will see it. That man says that he saw two women, one going into the house in Sandyford Place, and the other coming out of it on the Saturday night, and neither of these the prisoner. That may not be easily explained, but surely it is not consistent with the case of the prosecutor. If that were true, and there is no reason to doubt the fact, it is quite at variance with his case. I do not require to account for these things. You must see that the evidence is real, sufficient, and strong, clear, and capable of convicting the prisoner. And even if that woman who was seen about the house was not the prisoner, it proves that there were women about the house on the day after the murder is said to have been committed, and that might explain the footprints said to be applicable to the prisoner. These are matters, however, with which I will not detain you. I will merely say that they are very material and very worthy of your consideration. And now, gentlemen, it may be that people feel that the blood of this unfortunate woman cries aloud for vengeance. I hope you will leave that vengeance to Him who has claimed it as His own; and who can direct the stroke with an unerring hand, and that in that humility in which human law and human justice acknowledges its proneness to error, you will remember that it is better that a thousand guilty persons should escape than that one innocent person should perish. Mr. Clark

[Mr. Clark concluded his speech amidst loud applause from the audience.]

Lord Deas (addressing the jury) said—Gentlemen, I am quite prepared, with your leave, to address to you now the few observations I have to make in summing up this case; but, seeing the late hour at which we have now arrived, I think it would be better for the ends of justice to postpone my remarks until to-morrow.

The jury, having intimated their desire to leave his lordship's charge until next morning, the Court adjourned at nine o'clock till ten o'clock on Saturday morning, and the jury were enclosed in terms of the deliverance pronounced at the former sederunts.

FOURTH DAY.

At Glasgow, the Twentieth day of September, 1862. Present the Honourable Lord Deas, one of the Lords Commissioners of Justiciary. Present also the Sheriffs as in the preceding sederunt.

Intran. Jessie M'Intosh or M'Lachlan, now or lately prisoner in the Prison of Glasgow, Pannel.

Indicted and Accused as in the sederunt of the Seventeenth current.

The Jury having come into Court, they all answered to their names on their being called over.

Lord Deas' Charge to the Jury.

Lord Deas

Lord Deas then charged the jury as follows:—

Gentlemen of the jury, in the indictment before you the prisoner, Jessie M'Lachlan, is charged with the crime of murder and with the crime of theft. The murder is said to have been committed upon the person of Jessie M'Pherson, a domestic servant in the service of Mr. Fleming, accountant, Glasgow. The place where the murder is said to have been committed is the house of Mr. Fleming, in Sandyford Place. The time at which the murder is said to have been committed is the night of Friday, the 4th, or the morning of Saturday, the 5th, July last. The instrument with which the murder is said to have been committed is that cleaver which you have seen, or with some other equally deadly instrument of that description. The theft is said to have been a theft of certain articles of silver plate belonging to Mr. Fleming, which are enumerated in the indictment, and certain articles of dress belonging to the deceased Jessie M'Pherson, which are also enumerated in the indictment. The place from which and the time at which these articles are said to have been stolen are the same with the place and the time when and where the murder is said to have been committed.

Now, gentlemen, the first thing you have to inquire into is whether there was a murder, and whether there was a theft; and if there was murder, and if there was theft, then you have to inquire who was the person who committed the murder, and who was the person who committed the theft. As regards the question whether there was a murder, I am afraid that none

The Honourable Lord Deas.

(*From a contemporary photograph.*)

of us can have much doubt about that. The deceased Jessie M'Pherson was seen in the course of that Friday, and she was seen on that Friday in her usual health—on Friday, the 4th of July. She was not seen again alive after Friday. Upon the Monday she is found dead upon the floor of her bedroom in the state which has been described to you, with so many wounds upon her head and face that, as the medical men said, it was difficult to enumerate them all, and some of these wounds were undoubtedly of a mortal character. A post-mortem examination of the body was made by the medical men to ascertain whether there was any disease of which she died, or any other way of accounting for the death except these wounds. And no cause was found. Some of the injuries were mortal—quite sufficient for death. There was no other cause of death discoverable. You will judge, therefore, whether there was any difficulty in coming to the conclusion that those injuries caused death. I need not read the medical evidence to you on this subject, I think, further than remind you of what answer Dr. Macleod, who seemed to me to be a most intelligent medical gentleman, gave to a question which I put. He said there was no cause of death discoverable on the post-mortem examination except the external injuries. And he told you also that one of these injuries in particular, behind the ear, was necessarily fatal, and that some of the other injuries would also prove fatal, most probably; and certainly prove fatal if immediate or early assistance was not obtained. You will judge, therefore, whether there is any room to doubt that the deceased died of violence. Though she died of violence, it does not necessarily follow that there was murder. A woman may die of violence by her own hand, or she may die of violence inflicted by somebody else in self-defence. I do not know that death by such violence as this could be well accounted for in any other way than one or other of these causes—either that they have been done by injuries inflicted by herself, or they were inflicted by somebody defending their own life, or that there was a murder.

Lord Deas

The medical men have told you—and you will judge whether there is any room to doubt the matter—that these injuries could not be self-inflicted; and certainly, if you believe that efforts were made after death to obliterate or obscure the appearances of what had taken place in the kitchen and in the passage, you will have no difficulty, I think, in coming to the conclusion that it could not be done by the person who was lying in this state on the floor. Then, as to the question of self-defence, there is no trace, or surmise, or suggestion of anything of that kind; and, indeed, the nature of the injuries that were inflicted are of themselves tolerably conclusive against any supposition of that kind. If there had been evidence of anybody defending his or her life against this poor woman,

Lord Deas then most certainly we should have had some trace of it, some circumstances leading us to that conclusion. But there are none such, and you will judge whether or not there is reason to conclude that murder was then and there committed by somebody.

In the same way, as to the theft, you have the testimony of Mr. Fleming, the proprietor of the house, that all the silver plate belonged to him, that it was in daily use in the family, and that it was in use up to and including that Friday morning. And you have the testimony of the pawnbroker—I am not at present speaking as to who pawned it, but you have evidence that it was all pawned by a woman, or by somebody certainly not authorised by Mr. John Fleming, and therefore you will judge whether you have not the ordinary kind of testimony that we have in such cases that that plate was the property of Mr. John Fleming, that it was taken away without his authority, and, if taken away without his authority, it was a theft most undoubtedly.

Then, as regards the articles of dress, you will judge whether there is not the usual evidence of theft with regard to them. These dresses were all in the possession of the deceased up to the Friday, and here they are found in the possession of another party, and some of them got dyed by that other party, and unless you think the deceased gave them to that other party, there, again, you have undoubted evidence of theft, leaving only the question who was the thief, just as in the other case we have the question who was the murderer——

Mr. Clark—Will your lordship pardon me. There is no proof of the dresses being in the house up to the Friday. There is no witness speaks to that fact.

Lord Deas—We shall see what may be the evidence on that point. It is for you, gentlemen, to judge whether there is or is not evidence to satisfy your minds, in the first place, that the dresses were the property of Jessie M'Pherson, or in her possession, and whether, if they were her property or in her possession, there is any presumption that can account for them going out of her possession, unless by theft. And then, since the learned counsel makes the observation, I must call your attention to the fact which the prisoner states in her declaration, that these dresses were sent to her on the Friday by a girl who, she says, was in use to clean knives for Jessie M'Pherson, but whom she does not know, and of whom she does not give us any trace. It is for you, therefore, to judge whether there is evidence to prove that up to the Friday these dresses were not only the property, but in the possession, of Jessie M'Pherson. Well, then, gentlemen, if you are satisfied that there was a murder, and that there was a theft, you will then proceed to inquire whether the prisoner at the bar is the person who committed

that murder, and the person who committed that theft. And, Lord Deas to begin with the lesser charge, namely, that of theft, what is said on the part of the Crown is this—what the Crown says has been proved is this—I am not saying that it is proved, I am only saying what the Crown says in regard to the theft, and that is, that those silver articles were in the possession of Mr. Fleming up to that Friday; that they were taken away from that house without Mr. Fleming's knowledge; and that they were pawned by the prisoner upon the Saturday. Then as to the dresses of the deceased, it is said that these, having been in her lawful possession and her property up to that time, are found to be then, or immediately afterwards, in the possession of the prisoner, who is using them as her own; and upon these facts the observation is made that you have there the ordinary proof of theft; because there is no doubt at all—you all know, I dare say—that when there is a theft committed, the usual mode in which that theft is proved is that the articles stolen are found in the possession immediately, or soon afterwards, of another person, who can't satisfactorily account for these articles being in their possession. That is quite sufficient, in point of law, to prove the theft, if nothing appears to you to throw a reasonable doubt as to the theft having actually been committed. It lies, then, upon the individual who was in possession of the articles to account how he or she came into possession of them.

Now, the Crown prosecutor says it cannot be doubted that these articles—both the silver plate and the dresses—were in the possession of the prisoner almost immediately after the theft was committed. The theft must have been committed on the night of Friday or the morning of Saturday, and on the forenoon of the latter day the prisoner is found pawning the silver plate, and it is likewise proved that she was in possession of some of the clothes or dresses which belonged to the deceased. Then, the only other question in regard to the matter is whether she satisfactorily accounted for the possession of them. Now, the way in which she accounts for the possession of the silver plate is this. It is said that it was all given to her by old Mr. Fleming, and the way in which she accounts for the possession of the dresses is that the whole of these dresses were sent to her upon the Friday night. You will judge, if you were trying an ordinary case of theft, if you would take a story of that kind or not—whether you would think it was enough for the party charged with the crime to say—"Oh, I got them not from the owner, but from somebody supposed to be acting as owner"; and whether, as regards the dresses, you would take the story off her hand that the deceased sent her dresses to her; and, coupling with this the use which is said to have been made of them, that the

Lord Deas prisoner was wearing one of them on that Saturday morning, that she sent another to the dyer, as if it were her own, and sent several of them to her friends in another town. Now, I don't wish to go into the particulars of this just now, because we must look at all this again when we come to consider the charge of murder. I am merely indicating what the Crown presents to you as the charge against the prisoner for theft—that she was immediately found in the possession of the articles, and that the account she gives of them is not to be credited. If you are satisfied that she was immediately in the possession of these things, and that she is unable to give a satisfactory account of that possession, it is quite sufficient to prove the theft. Then, as to the murder, we have had a good deal of evidence; but laying aside a good deal of what has been proved and founded upon in argument, I think the substance of the case alleged by the Crown—I am not here to say anything more than that—the substance of the case which the Crown says has been proved against the prisoner in reference to this murder is this—that she had been a servant in the house; that she knew all the silver articles and the other articles in question; that she was intimate with the deceased, frequented the house as a friend of hers, and had access at any time she chose to go. That about that Friday, the 4th of July, she was very much in want of money; that she was behind with her rent; that she had a great many articles in pawn; that almost all her husband's clothing was in pawn; that he was expected immediately home; and that there were in that small house of one apartment which they occupied no less than forty-one pawn tickets. That she went out upon Friday evening, and that she had arranged upon the Friday evening with a witness—Mrs. Fraser, I think it was—to come and keep her child, of three years old, whom she could not well leave alone; that Mrs. Fraser did not come——

Mr. Gifford—Mrs. Adams.

Lord Deas—That Mrs. Adams did not come; that, nevertheless, she dressed herself in a dress which was described to you—part of it being a brown merino gown, a bonnet, which is not now forthcoming; boots, which are not now forthcoming, and other articles of dress; that she went out about ten o'clock at night, saying she was going to see the deceased; that she was seen about half-way to Fleming's house, at the Gushet House, or a place of some such name, said to have been about ten minutes' walk from the one place and ten minutes' walk from the other. That she did not return that night at all; that she did not come back until between eight and nine o'clock next morning; and that in the meantime Mrs. Campbell, who occupied the

other two apartments in the same house, had lifted her child about half-past five o'clock and given it its breakfast, and put it to bed again, the mother not being there, and that she, Mrs. Campbell, herself let the prisoner in between eight and nine o'clock. That when she returned she was not wearing the brown gown she left the house with, but that she was wearing another gown, which the Crown says is proved to belong to Jessie M'Pherson; that then, in the course of that day she is found pawning the silver plate which was lying loose in Mr. Fleming's house. And then, the prisoner being in want of money before, sends to relieve a great many of the articles which she had in pawn. She pays her rent, and in short the wants she had before of a pecuniary kind are all relieved. Then, it is said that immediately after this she is found to be in possession not only of that dress of the deceased, with which she came back that morning, but substantially of all the dresses of which the deceased was possessed—and she sends some of them to be dyed and some of them to be altered. It is further said, on the part of the Crown, that when she is thus in possession of everything known to belong to the deceased, her own clothes, which she wore upon the Friday night when she went out, have all disappeared. Then it is said that, upon the Monday, she goes to Hamilton, where we do not find that she had ever been before—where it is not proved she had one acquaintance—and that at Hamilton she disposes of all the clothes which she had been wearing, or may be supposed to have been wearing, upon the Friday night at the time she left. It is said that she is seen and identified as the person who brought a box to a house in Hamilton, and that she afterwards went out of the house, where the box was left, with a bundle tied in a handkerchief; that she was seen to go first into one field, then into another field, and to pass a certain part of the road. At each of these three places there are portions of dress found, and said to have been identified as belonging to the prisoner. At one place is found a torn flannel petticoat; at another a wincey petticoat, also torn; and at another place there is found a merino gown torn into shreds. The Crown says it is proved that all these articles of dress were saturated with blood. It is said to be proved to be human blood, but I do not know if it is possible to prove that it is human blood. Dr. Penny says it is impossible in this case, after the lapse of time. Some people still doubt whether it is possible to say in any case whether it is human blood. But it is the same description of blood, which is all that generally can be proved in any case of murder. And you can say whether, connecting that with all the rest of the circumstances of the case, it is reasonable to suppose anything else than that it is human blood.

Lord Deas

Lord Deas Well, then, it is further said that when she is taken into custody—some ten days afterwards, I think—having heard of the murder meantime—having had an opportunity of hearing all that had been talked about it in this city, and all that was said about it and published—having had that opportunity, it is further said, upon the part of the Crown, that in that declaration before you, to which the Advocate-depute called your attention, she attempts to account for all or many of those things in a way which is said not to be credible. It is further said, upon the part of the Crown; that, coupled with all these circumstances, there were seen on the floor of the bedroom bloody marks of naked feet, which had been made when the blood was wet, and which afterwards were seen when the blood was dry, which were compared and were found to correspond with the naked left foot of the prisoner; and which, it is further said, do not correspond with the foot of the deceased or with the foot of any male person. And then, it is said, moreover, as another circumstance in the case—and no circumstance is to be kept out of view, for although they are small, yet when taken in connection with other and more important things, they become important—it is said to be remarkable that when the accused was apprehended there was found in the press of the house at Sandyford Place a bottle that corresponds in appearance with a bottle which Mrs. Campbell supposes the accused took out of her press on the Friday night. It is not disputed that the accused took a bottle out of Mrs. Campbell's press, and it is in evidence that, before the bottle left Mrs. Campbell's house, or the prisoner's house, on the Friday night, there was rum in it, and it is said that this bottle that was found in the house where the murder was committed had the smell of rum. That is a small circumstance, and it would not be a very safe one to rely upon. It may be very important in the question whether there had been a woman there that night with the deceased, or it might be very important in the question whether the murder was committed by a man; but, standing by itself, it would not be sufficient evidence to proceed upon against the prisoner. But it may be very important when taken in connection with the fact that the prisoner had all the dresses of the deceased: going out in her own clothes and coming in with the dresses of the deceased, and going ten or twelve miles to dispose of her own clothing. Now, gentlemen, that being the sort of case which the Crown says is proved, it is for you to judge whether these facts are proved or not. But these being the sort of facts which the Crown says have been proved, you must look next to how the prisoner proposes to explain these facts.

She was examined on declaration, as every prisoner is in

this country who is apprehended on a criminal charge. One great object of that is to allow the prisoner an opportunity, if the prisoner thinks proper, to make some explanation of the circumstances which may seem to weigh against him or her. The length of her declarations has been complained of, but you will judge whether the very eloquent and able speech you have heard on behalf of the prisoner was not founded a good deal on the explanations that were offered by the prisoner in these declarations, and of which otherwise we would have had no traces before us. A prisoner when so examined, may decline to answer all questions; but to an innocent person it may, and must be, a very valuable privilege to be allowed to give explanations, and to have the circumstances which look dark and suspicious against him or her cleared away. I rather think, gentlemen, if any of you were accused of a crime, you would be very anxious to use that privilege. If the old gentleman who was in that box, and who is said to have been concerned in this matter, had not been allowed that opportunity, I do not know whether he would have been liberated. At the same time, the person examined has always the power to say, "It is safer for me to hold my tongue in place of explaining these circumstances. I think it would be safer to let them alone." But if the person chose to make an explanation and statement—after being told, as the prisoner was, "You need not make them unless you like"—it is impossible to doubt, according to the law of this country, that these statements may be evidence which you are to look to and found upon along with other evidence against the prisoner. The statements made by the accused person are not, according to the laws of this country, evidence against the accused person further than the inquiry bears them out. But they are not, unless otherwise supported, evidence in favour of the party; still less are they evidence against any person else. It would be a very alarming state of matters if the statement of a person accused of a capital crime, it may be, was to be regarded as evidence against some third party, who had no opportunity of defending himself or herself against that accusation. That is not the law. The statements of the prisoner, therefore, are of themselves no evidence against anybody else unless they are supported by evidence; and it would never do for you to come to the conclusion, because this person chooses to say that these crimes were committed by somebody else, that such was the case, unless it were satisfactorily proved to you by the evidence. To what extent that proof may be competent it is not for us now to inquire, because no obstacle in this case has been thrown in the way of preventing her from proving anything in her declarations or explanations

Lord Deas

Lord Deas which she gives in doing away with the effect of that evidence which the Crown says rests against her. It is for you to judge how far these explanations have or have not that effect.

And now for the case of the prosecution. If it be true that this prisoner was in want of money on that Friday; that she went on the Friday night to go to the house in Sandyford Place dressed in a particular manner; that she did not come back all night; that she chose to say, nevertheless, that she did come back early, and was in the house all that night; that this is said not to be true—if she is out all night, leaving her child of three years old without anybody to attend it, so that Mrs. Campbell is obliged to attend it at half-past five in the morning, when the prisoner was not at home; if she does not come back till nine, and when she comes back she is dressed in a gown belonging to the deceased person who is murdered; if she is in possession of all the articles belonging to Jessie M'Pherson, and in possession of silver plate stolen from the house of Mr. Fleming; if the dress which she wore upon that night when she went out is not to be found in her possession, but is traced as having been torn in pieces and destroyed; if her flannel petticoat has disappeared and is afterwards found stained with blood; if the remains of her crinoline are likewise found stained with blood; if the bonnet she wore that night is never seen again; if her clothes when found are all covered with blood—you will judge, gentlemen, how far, if these things are true, it is any satisfactory explanation of her innocence to say that old Fleming gave her the plate and committed the murder. How are we to account for her coming back in deceased's gown? for her sudden possession of money? for her clothes covered with blood? How are we to account for her being out all night and returning home at nine o'clock next morning? It is for you to judge whether a person who came in, in the circumstances in which she did, is innocent of the murder. It was stated to you, quite correctly, that it won't make one person less guilty of murder because another person has acted with him in the commission of murder. Actor or art and part in the commission of murder is the same thing. But, even if there were more than one person connected with this murder, it is no reason for letting one of them escape because we cannot find them both. But, then, it is said by the Crown that there is no evidence of two persons being connected with the murder; and it is said further that there is no evidence to uphold the allegation that old Fleming had anything to do with it. I have already told you the statement of the prisoner with regard to that; but, sitting here for the direct purpose of trying the guilty, it is your duty, and mine also, to take nothing against innocent persons, who may not be here to defend themselves.

Now, what are the circumstances which are founded upon on the part of the prisoner in order to show that the old man Fleming was the guilty party? You heard him examined at great length. He seems to be a person of great age—eighty-seven, I think he himself says—and he must be of a considerable age, because a witness, aged fifty-eight, said he had known him from his youth upwards, and that old Mr. Fleming then had children older than him. His physical appearance indicated that he was not, so far as mere strength was concerned, unable to have committed this murder, if he had been so inclined. He is a vigorous man for that time of life. He employs himself, under his son, in collecting rents and transacting business—all of which he seems to do sufficiently well. There is certainly nothing about him which would incapacitate him from doing the deed. It cannot be contended on the part of the Crown that there was any incapacity on his part, or by the defence that there was any incapacity on the prisoner's part. Considering the instrument we have had here in Court, it is pretty evident that there was no incapacity on the part of the one nor on the part of the other to commit the murder if they had been so inclined. Now, you heard his examination, and you will judge whether there was anything unsatisfactory in it, or whether, on the contrary, it was not a clear and distinct and freely given statement. Lord Deas

Now, then, as to the question whether he opened the door to the milkboy, and what time he opened it, you will consider how far it bears on the question of the murder. That is coupled on the part of the prisoner with what is more remarkable, namely, the length of time which elapsed before he took any notice of the disappearance of the servant from the house. But when you couple these two circumstances—the length of time he allowed to elapse without saying anything about the disappearance of the servant from the house, or doing anything to call assistance, and the confusion he undoubtedly got into in giving his testimony about the opening of the door that morning—you will consider whether there was anything in the whole of these statements which could even be said to be unsatisfactory; and you will further consider whether on all the rest of the evidence that was adduced, apart from what is said to be unsatisfactory in these circumstances, there is anything to inculpate him, or whether that part of the evidence was not quite consistent with and tending to establish his innocence. Now, if that be so—if there is not in the proof a single circumstance even of suspicion against him, and if there is nothing in his own statement unsatisfactory, except that two or three days passed before he gave any alarm about the disappearance, and except his confusion regarding the milkboy in the morning—you will

Lord Deas ask whether that throws any light on the question of the murder, or whether, if he had been at the bar, you would have hesitated one moment in giving a verdict in his favour.

There is one circumstance in the evidence which undoubtedly is said to go against him, and which I mean to notice—that is, that a policeman was brought to say that on the Saturday night he saw two women come out of the front door of the house. And then there are the observations made as to the state of the floor, and the washing of it to a greater or lesser extent. These are some of the circumstances in the evidence which are said to tell against this old gentleman, apart from the observations made as to what is unsatisfactory in his own statement. Now, if the statement of the policeman is to be relied on for any purpose at all, it must be relied on to show that the murder had not then been committed, for the insinuation seemed to be that the murder was not committed on the Friday night or Saturday morning, but later. And this, of course, will be a much more important circumstance. The policeman says that there was another man with him, and he said that the other man's recollection corresponded with his. Unfortunately, that other man was not brought here. Then the policeman says that the first time he ever thought about this matter was on Tuesday, when he heard of the murder. He never considered the matter before, and no wonder, as he was accustomed to go out every evening in the week at a certain hour, and no doubt saw many people. What made him think of this particular circumstance, however, was that he had written a particular letter on a certain night, and on making inquiry at his landlord regarding that letter, he was told, and afterwards recollected, that he had posted this letter to his father on Saturday night. Now, if anything is to be founded upon this letter, either against the prisoner or against the man referred to, it is very unfortunate that the letter was not brought here, in order that we might have seen the postmarks upon the letter. There was no difficulty in getting it. No pains seem to have been spared upon the part of the prisoner in getting up the defence. It is most satisfactory that it is so. It is most creditable to any gentlemen who may have assisted in that matter—who may have given their money or their professional assistance—that is most creditable to the persons, be they who they may. By whom that was done we do not know, but we know this, we have evidence that the prisoner's defence is very well and thoroughly attended to. And there has been brought for the defence counsel than whom no more able counsel could be found at the bar of this country; and the duty has been done in a very satisfactory manner. We see all that; and, seeing all that, we cannot but make the observation that it would have been

satisfactory if that letter had been produced. The witness has stated what occurred to the best of his ability, I do not doubt; but he may be under a misapprehension in regard to one or two things—in the first place, about the night. He was there both before and after that night, and I dare say saw the same sort of company every evening. But you likewise can account for it very easily by supposing that he mistook the door. A policeman upon the street, which is a continuous row of houses, who had not had his attention drawn to it at all, and had no occasion to remark upon it, puts the question to himself several days afterwards—Out of what number did these two persons come? You will consider that it was easy for him to mistake the house. Any of yourselves might, on going home of a night, walk into the wrong door and find that it was not your own. Then, in considering that question, you will take along with you the facts that the prisoner states that she got the plate from the old man upon the Friday afternoon, and that it was upon Thursday or Friday—I forget which—that the deceased sent her all her dresses. And you will take along with you the circumstance that it was upon the Saturday about noon that she pawned all that plate; and you will take this question, whether the murder, which no one seems to dispute was committed, was done for the purpose of theft, or whether the theft was committed first and the murder came next. And then you will connect it with all the other circumstances as they appear from the conduct of this woman. You will connect it with the fact of her going out on the Friday night in her own gown which has disappeared, and coming in next morning in the deceased's gown, and disposing of the clothing which she had worn that night. You will put all these things together, and ask this question, whether the murder was committed on the Friday night, or whether the murder was not committed until the night of Saturday, merely because one man thinks, from a recollection of three days afterwards, that there was another woman who is not here, connected with it, or that all these circumstances did not take place?

Lord Deas

Then, as regards this part of the case in reference to the old man, you will think whether there is not some misapprehension about those persons being seen coming out of the house that night, and whether, as I have observed, the evidence as to them is at all satisfactory. With regard to the marks of blood seen in the old gentleman's room, the evidence is very inconclusive. In the course of the defence something came out as to an old clothes bag, which was found in his room, and said to have marks of blood upon it. But the blood was only the size of a shilling, and old and faded. Then there was a little bit of linen cloth stained with blood, which might be

Lord Deas used by anybody who had a cut finger for wrapping round it, in regard to which all the witnesses swore that the marks were not new, but old and dry. It was stated that the blood was dry, and had no appearance of having been connected with anything recent at all. As to the bag which was said to have been found in old Fleming's room, I must make this observation, that if the prisoner was to found anything on the marks on the bag, it was incumbent on her, and not on the Crown, to get the bag produced—at all events, to call for its production. You will judge whether anything has been found in that house which can by any possibility have any bearing upon this part of the case. And you will take along with that what you have heard from the officers, who made a thorough search. Nothing is found in his bedroom or in the whole house, with the single exception of two spots of blood on the newly-dressed shirts, which the old man himself told you of. Not an article of clothing, or an article of any kind found, with the slightest stain of blood upon it, or the slightest trace found of anything which can connect him with this case; and you will judge from the nature of the wounds and the quantity of blood which must have flowed from them, and the state of the clothes of the prisoner, if they are the prisoner's clothes, which you have had before you, covered with blood; you will judge whether, in these circumstances, if the old man had taken any part in the murder—I mean with his own hands—you would not expect to find some article of dress or of clothing to trace his connection with the murder and implicate him in it. It is not said that any article belonging to him has disappeared. If that had been so, I have no doubt it would have come out in evidence. The police took possession of the house upon the Monday, the moment that the case was brought up, so that after that he had no opportunity of doing anything or putting away anything. He might, no doubt—just as the prisoner did on the preceding day—put things away. The probability perhaps is that if he had done that they would have been traced and found, as the prisoner's have been. It is by no means a necessary consequence, when people commit crimes of that kind and put away things, that they are successful. Generally they are not successful. Very generally there are facts and circumstances at the time, as if it were a provision of Nature, which come out against people who are connected with crimes of this sort. It is for you to judge whether there is any proof of anything whatever belonging to him that has not been forthcoming, and whether it has or has not been proved that everything belonging to him was free from all stains of blood—whether there is anything to connect him with the murder, even art and part, and, still more, how far that will go in showing that the prisoner is not concerned in it.

Then, as to his conduct, there is no doubt that it looks—at all events looks to us, on looking back on it—very remarkable. You will, of course, consider whether things of that kind, when one looks back upon them, knowing all that we do, may or may not look to us more remarkable than they really were. We cannot lay out of view that, although he is a man still in the possession of his faculties, as much as he could be, perhaps, at his age, and perhaps more so, he is a man of extreme age, and it is for you to judge how far his senses and his powers of observation had or had not got blunted at that very uncommon time of life. He seems to have been a man of peculiar habits. According to his own account of himself, he was not dependent upon servants, and he was a person who had no pride to prevent him doing acts that were necessary for his own comfort. He told you himself that he would sometimes go into the kitchen to warm his feet—a very natural thing for him to do, seeing that at that time of the year there might be no fire in such a house except the one in the kitchen. He told us that he read the papers there, and said, I think, that he took tea along with the servants. Then, again, he told you that he could get his breakfast very easily, that he was not particular either about that or his dinner—he put on a gathering coal and left the fire burning; and you will therefore consider whether there is anything so remarkable in his apathy at the absence of a servant whose absence personally he so little felt. It is said that there were marks of blood in the kitchen, on the door, and some in the passage, which he might have seen, and that there were traces of washing on the floor which he might have seen. It is for you to judge whether there is any reason to think that he did see them. If he did not see them, and if he had no suspicion, it would be very little for the purpose of this case that it founded on observation, that he had very little capacity, or was very stupid. The stupidity or strange conduct of any man in these circumstances is no reason in the world why we should throw overboard all proof of guilt against another party. And you will consider whether, though his conduct had been much more strange than it was, to what extent that goes—whether it goes to satisfy you that he committed this murder, and that the prisoner did not. Would it not leave all these facts and circumstances still unexplained? And would it not be far more extraordinary than that this man of eighty-seven years of age waited till his son came home on the Monday, without saying anything about the servant, not being dependent on her services, or that he did not discover the traces of blood that were discovered by the sharp eyes of the police officers, or the marks of washing in the kitchen or in the passage, about which there is a great dispute even to this hour? The doctors were in the house

Lord Deas

Lord Deas some time before they seem to have observed these marks. We are told by one of the witnesses that the marks were at the back of the kitchen door, that those which seemed to have been the most remarkable were not visible when the door was opened back upon the dresser. They were only seen when the door was shut. And you have it, I rather think, in evidence, that even the doctor, when he went there at first, did not see anything upon the floor, or passage either, which led him to think that anything remarkable had taken place there. Because Dr. Watson, who seemed to me to be a most intelligent witness, seemed at first to have been under the impression that there was no reason to doubt that there was a suicide. But if Dr. Watson, when he went downstairs, had looked over the house, and seen anything to indicate a struggle in the kitchen or in the passage, or anything of that sort, it would hardly have done to say that it was a suicide, and to stop Mr. Fleming from going to the neighbours and making any alarm. So that, looking to all that, you will just consider whether it is or is not more probable—much more probable—that this old gentleman did, stupidly it may be, very stupidly it may be, take for granted that the woman had merely gone out and gone away, and would come back again in a short time; whether that is very probable, or whether he saw traces so distinct before his eyes as to lead him to suppose that a murder had been committed, and yet gave no alarm, and made no investigation.

I have stated to you generally what it is which the Crown says is proved. The only other thing in the conduct of the old gentleman which remains to be alluded to is that about the milkboy, who came on the Saturday morning. Now, you have heard the evidence, and you must have observed as well as I did that there was a confusion in his recollection about that, and that, as he was considerably deaf, he sometimes thought that questions put to him were not about what he did, but about what happened in the house. He certainly did say at one time that he did not open the door to the milkboy that morning, and at another time he said he might have done it; and he repeatedly said, "I would just tell him I didn't want any milk that morning." Then, in reference to the screams which he heard in the night, it was said to be remarkable that he did not take any notice of these screams. That is for you to judge. He says he heard three screams about four o'clock in the morning. The first was loud, and the subsequent ones were faint. He got out of bed to listen, but all was immediately quiet, and he just went to bed again and slept as before. His own account of that was that he thought the screams proceeded from some loose people outside, at the back of the house; and that, as it was not

continued, there was no occasion for him to trouble himself more about it. Now, you will judge how far that is or is not probable. I do not know how it may be in that house, but I rather think in many houses when one is in bed it is not easy to distinguish sounds outside of your house from sounds that are inside, especially sleeping near the street, or where sounds are easily heard from the outside. Now, the first and only loud scream appears to have been the one that awoke him, which he might not hear so distinctly as to judge of where it came from. It was a natural enough thing that a man being awakened by a noise of that kind in the morning—he says expressly that it was all over again in a minute—it is not at all remarkable that he never thought of inquiring what was the cause of the noise. A stronger observation made upon that was, how did it happen that he did not couple these screams with the disappearance of the servant? The question as to that depends entirely upon the state of this old man's mind; and considering that, considering his age and his habits, you will judge first in how far that is in itself strange, and then in how far it bears either upon his own guilt or innocence, and upon that of the prisoner at the bar. As to the milkboy, you will recollect that the old man said that after looking at his watch at four o'clock he fell asleep, and slept till six. He says that he did not get up till nine. He says that he slept till six. Well, according to that, if he did not get up, he was lying awake till the time that he rose. When he did get up he says that he gave some chaps at the servant's door, and, not receiving any answer, he thought that she had gone away and taken the key with her. Now, the whole question just depends on whether you think it is probable that there was some confusion in the old man's memory as to what he did that morning, and as to the order in which he did it. The time for the milkboy to come was between eight and nine o'clock. He says he sometimes came later. Lord Deas

Mr. Clark—It was twenty minutes before eight when the milkboy came. That was the statement of both the boy himself and his master.

Lord Deas—We shall see that when we come to the evidence. It does not touch my present observation at all. My observation was that the boy sometimes came sooner and sometimes later. The observation I was making was about the time the milkboy came. The old man says that he was awake at six o'clock, but he may have got up sooner than he thinks or than he now remembers. He says that he went downstairs and chapped at the servant's door, and then the milkboy came and he answered the door. The mere misapprehension about the time would account for the whole matter. He thinks that he did

Lord Deas not go down and chap at the servant's door till about nine o'clock, but in place of about nine, or between eight and nine, it was between seven and eight that he had gone, and then that he had answered the milkboy. It is a mere difference of order, and any apparent discrepancy may be accounted for. It is said that the chain was on the door when the milkboy came. The old man said most positively that the chain was not on the door when he went to the door the first time that morning. He was quite sure about that, but he got confused afterwards as to whether the chain was on the door when the milkboy came. You will see at once that if he had been up before the milkboy came, and if, when he came downstairs he chapped at the servant's room door, and she did not answer him—if, I say, he then went to see whether the front door was fastened or not, and found that the door was not upon the chain or was not locked—in that case he might very naturally have put the chain upon the door before the milkboy came, and have taken it off again when the milkboy arrived. You will judge how far that boy is likely to have taken notice, particularly of a matter so trivial as the undoing of a chain, which could have had no special interest for him, nor have fixed itself on his mind at the time for any particular reason. You will consider how far you would take notice yourselves of such things. I do not know whether you will yourselves remember ever having locked your own doors at night, and gone not very long afterwards to see whether you had locked it or not. I myself have known persons who have done so—persons who could not be sure half an hour afterwards whether they had secured the doors of their houses or not until they went to satisfy themselves. You will judge therefore whether the putting on of a door chain or the taking of it off is a thing that will linger in a man's memory, or whether it is strong enough proof to establish the guilt of the murder.

Another remark I have to make is that, if you think it not improbable, he may have gone to the door earlier, or rapped at the servant's door earlier than he thinks; if he had gone to the front door, and ascertained whether it was opened, and was thereby confirmed in the opinion that she had gone out by the state of the door, whether he may not have chained up the door and remembered nothing more about it. Then you will have to consider the question whether you can be quite satisfied that the chain was on the door. There is no evidence of that whatever, except the statement of the milkboy, who says he thought he heard him take the chain off the door. Now, though the milkboy may have been quite sincere in what he said, you would be disposed to inquire how far that could be relied on, and whether he was quite certain that what he heard was the taking of the chain off the door. The chain would not

unnaturally be taken off the door before the old man came, Lord Deas
and, though the boy thought what he heard was the movement of the chain inside the door, it is for you to judge whether he could be quite certain that the sound he heard was the taking off the chain, and not some other movement connected with the opening of the door; so that, taking the whole of the matter together, you will form an opinion whether—though it may have been a little strange, and not so satisfactorily ascertained as you would desire—there is anything in these facts to prove to you circumstances which are to lead you to the conclusion that the old man committed this murder, and the woman at the bar had nothing to do with it One thing must strike you. I don't see very well why the old man should have denied this occurrence had he really remembered it. Why should he have denied opening the door to the milkboy any more than the other people to whom he tells you that he did open? You will ask yourselves what object he could have had. Any suspicion that could have attached to him in consequence of the door being found fastened in the inside he could easily have done away with. Nothing could have been easier for him than to account for the door being fastened, if it was fastened, in the manner I have suggested, or in some other way. He had no object to serve in the matter. In the absence of any object, you will ask yourselves whether the whole matter is not a mere confusion after all. The only object it could serve would be to show that, the house being all secured from within, the murder was committed by some one inside. If it does not lead to that, it leads to nothing. But will it account for the prisoner not sleeping in her own house that night—for her going out in one gown and coming home in another—for her possession of all those articles of clothing and plate early the next day?

It is necessary for you to couple all that, upon the question of the old man's guilt, with attention to the worth of the statement which the prisoner makes against him. Her statement is that he came to her house upon the Friday afternoon or Friday night and gave her all that plate. Did anybody see him there? Mrs. Campbell, who lives in the house, did not see him. She never saw him there at all. She never saw the man, she says, there in her life. The prisoner further says that the object for which he gave her the plate to pawn was to raise money to let him take a trip to the Highlands. He had plenty of money in the bank if he chose to go for it. It would be a very odd thing if, for the first time in his life, being eighty-seven years of age, and living in his son's house, he should all at once take it into his head, in order that he might get the means of going on a jaunt to the Highlands, and to raise the necessary money, instead of drawing £2 or

Lord Deas £3, to steal his son's plate, and go to the prisoner's house, and tell her to get money on it, and that after she had got £6 10s. or £6 15s. upon it he should offer her £5 for her trouble, of which she says she accepted £4, leaving the balance to go to the Highlands with, an intention of which you have no trace, no evidence whatever, not even so much as a probability of it. That would be very strange. Then you will consider whether it is not still more strange that that very same day, or the day before, I forget at this moment which, the woman whom he had murdered, without the prisoner having anything to do with the murder, had been sending away all her good dresses. And how came it that the prisoner took possession of them and got some of them dyed, and how did it happen that she went out wearing one dress and came back wearing another, and how did she cut all her own clothing and tear it into tatters, and that it should afterwards be found saturated with blood? You will consider whether it is probable that these things should have come about. If you think, in place of that being true, it is a tissue of lies, if you think that the defence put in here—and the only defence put in here—that the murder was committed by the old man, was a lie, you will consider how far that is consistent with the innocence of this woman. There is a trace of some party having been in the house, not the old gentleman at all, but some female whose footprint corresponds with the foot of the prisoner. Then the prisoner had rum on the Friday night in a bottle belonging to Mrs. Campbell, and a bottle like the bottle in which was the rum is found in the house at Sandyford Place, having a smell of rum. You will consider the circumstances as to this bottle of rum, and the fact that Jessie M'Pherson, an admittedly sober, honest, steady woman, had been induced that night to partake of rum.

As regards the question whether the murder was committed in the kitchen or in the bedroom, and how it was done, or whether the body was dragged from one apartment to another, you cannot get the particulars of that. It is a deed of darkness; and, if you are satisfied that a murder was committed that night, there is no materiality in what particular apartment it was done. It certainly appears that these screams came from one of the apartments, and the probability is that it was the kitchen or the other apartment, and, if so, you will consider whether the murder was not committed at four o'clock in the morning. You will judge whether that is a circumstance telling in favour of the prisoner. She was well acquainted with the deceased, and, if she had any reasonable excuse for remaining with her all night, I have no doubt she would remain with her all night; and whether she did go to bed with her and take advantage of her being asleep, and give her, while she was in the bed, the first blow—whether that was so or not—

whether the deceased, notwithstanding, rallied and got up and struggled to the kitchen, and the prisoner then gave her the number of blows which were necessary to produce death; whether that was so or not, it is not material for us, for it does not affect the question of her guilt or innocence. The question that remains for you is, was it done some time in the house on that night, and was it done by this prisoner? Lord Deas

Now, gentlemen, having made these observations to you, it is my duty, I think, in a case of this kind, to call your attention to some of the more important passages of the evidence adduced, to see whether the case which the Crown says has been proved against the prisoner has or has not been proved against her. I have said that there is a great deal of the evidence which I do not think it is necessary to trouble you with, although favourable to the Crown. For instance, the evidence of the railway clerks and porters, and so on, as to the passing to and fro of the one box, and the purchase of the other box. These do not appear to me to have any great bearing on this case, but you have heard it led, and I do not detain you with it. The reason that I say that this evidence is not of material importance in this case is this, that the object of it all can only be to prove two things. In the first place, to prove the clothing which is found covered with blood as having been disposed of or put away by the prisoner, and, in the next place, to prove that the dresses of the deceased were found in the possession of the prisoner. These are the only two purposes for which this evidence has been brought forward, and of this you can judge from other witnesses. You have a great deal of evidence on this point, apart altogether from the passage backwards and forwards of the boxes, to enable you to form your judgment. And then I must tell you that it is entirely competent for you to take the statements made by the prisoner herself in her declarations, where it is fully admitted that the dresses of the deceased were in her possession. We do not need railway clerks and porters to tell us of the sending of the box to Hamilton when the prisoner freely admits that she sent it in the way it is alleged. The material parts of the evidence are those which relate to what she did on the Friday, how she was dressed on the Friday night when she went out, and when she came in; what she did on the Saturday, what were the articles she disposed of then, and how; what she did when she went to Hamilton on the Monday. These appear to me to be the most important circumstances in the evidence, and I will read to you those portions which I consider necessary, so that you may have your memory refreshed after this long trial on those matters, in order to judge whether the allegations made on the part of the Crown be or be not correct. And it is on that evidence, and not on

Lord Deas the observations which I have made, that you are to consider whether those allegations are true or no. My observations have merely been directed to what the Crown says has been proved, and what is the natural inference to be drawn in point of law and common sense if they are proved. My observations are to be taken merely for what they are worth. I have been stating what I consider the inferences that would appear to me to be not unreasonably drawn if the charges are established. If they are established, it is for you to judge from the evidence. I shall shortly call your attention, in the first place, as to what occurred on the Friday and the Friday night.

The first witness you have upon that subject of any materiality is the witness Christina Fraser. She says that on Friday night, the 4th of July, being on the north side of the Clyde, she called on Mrs. M'Lachlan, and the door being opened by Mrs. Campbell, she passed in to the bedroom of the prisoner, who was dressing herself to go out. She had on a grey cloak, and below it a dark dress of some sort. She said she was going to see the child of a Mrs. M'Gregor, and witness, after having a glass of rum with the prisoner, accompanied her to the top of Stobcross Street, where they parted, the prisoner going towards the Gushet House, Anderston. [His lordship then referred to the evidence of Mrs. Campbell, but before doing so called the attention of the jury to the fact that it was distinctly proved that the husband of Mrs. M'Lachlan was absent with his ship when all this took place, and that it was as plain as the sun that he knew nothing about it. The evidence of Mrs. Campbell showed that the prisoner went out at 10 p.m. on Friday, that she then had on a grey cloak and a brown merino gown, that Mrs. Campbell had a bottle resembling in size, shape, and material the bottle found in the press in the sunk flat of Mr. Fleming's house, that the prisoner had been out all Friday night till next morning, and that she came in wearing a different gown. His lordship then proceeded to call attention to discrepancies between Mrs. Campbell's evidence and the declaration of the prisoner as to the time she returned to the house. Before going into other parts of this witness's evidence, he said he would now allude to the other evidence referring to the same period, but given by different witnesses. The first witness to whose evidence he referred was Mrs. Adams. In alluding to this witness having received from the prisoner a dressing glass to pledge, so that she might redeem a cloak, his lordship observed that they would consider how far the circumstance, that before she could get this 6s. in order to lift the grey cloak which she wanted to use, she had to send this woman with a dressing glass to raise the money, was or was not consistent with the

allegation of her having plenty of money at that time. Refer- Lord Deas
ring to the statement that the prisoner had told Mrs. Adams that Jessie M'Pherson told her to go round to Sandyford Place about nine o'clock, as the old man would be in bed by that time, his lordship said]—I may remark here, gentlemen, that it appeared at one time as if an attempt was to be made to prove that this old man was a man of bad character. You will judge how far that was proved or not. The Crown opened the way for that investigation by asking some witness whether he was always a man of respectable character, and that witness said he was; and upon that, very naturally, the prisoner attempted to prove he was not. You will judge whether there is anything proved against him, except this, that the servant women, both of his own house and of the next, said that he looked too much after them. He did not like people coming to the house at night without knowing who they were; and if the bell rang he would look to see who was there; so that, consequently, even though Jessie seems to have been quite a respectable person, if she were in the habit of introducing her female friends at night by the back door through the lane, she might, as she did, say he was an old devil. Some other witness used the expression that he was an old wretch. The reason for his being an old devil or an old wretch was that he was very inquisitive; nobody could come to see them without his knowing of it; they could not bring in their friends without his knowing of it. I do not say how far that was proper or not; but you will judge whether that does or does not go deep into a man's character in a charge like this.

Mr. Clark—Then there was Mrs. Smith's evidence, in regard to the statement that the deceased made to her.

Lord Deas—I say you will judge how far that goes to prove that the old man is likely to be a murderer. You saw the servants in the box. They were of various ages—some less, some of them more attractive. I do not know if it is very extraordinary that, as regards some of them, they should have admirers coming about them, and that the old man might look a little sharply after them; and you will judge whether there is a trace of any further dissatisfaction that this woman, Jessie M'Pherson, had with her service in that house except that. She evidently did not like it, no more than her next door neighbour; and, as far as we see, the expressions which she used, or anybody else, had reference to that sort of habit, and accordingly she was just about that time introducing her female acquaintance—it may or may not have been this prisoner—by the back door. But the counsel for the prisoner suggests that there is another ground of suspicion against the old gentleman, which is, that Jessie

Lord Deas M'Pherson was supposed to have something which she meant to tell a friend that she met upon the street one night which she did not choose to tell in presence of her husband and the other people who seemed to be standing by. It is not for me to say to you that it is not proved that the thing that Jessie M'Pherson had to say was anything material against this old man's character, or whether this circumstance will raise a suspicion in your minds. It raises no suspicion in mine. This woman she met was an old acquaintance of hers, and it is quite a natural thing to suppose that, when she said she had something to tell her, what she might have to say was that she was going to emigrate. Suppose she had said that she was going to leave the country, and that she was not comfortable, because the old man tormented everybody in the house, and was so inquisitive that she could not live with him. Suppose that she had said all that, would that have been anything against the character of Fleming? You will judge whether there is any ground of suspicion as to a man's character in anything that may be thought by servants in your house or in any person's house about you. Now, these observations were suggested by the answer of the witness, who said the prisoner said this was the time to go to the house, because the old man went to bed. Now, in connection with that it is right that I should read what Mrs. Smith said when Mr. Clark examined her for the defence. What Mrs. Smith said was—"I last saw Jessie M'Pherson on the 28th June last, in Sauchiehall Street. I had a conversation with her there. I had not seen her for two years and two months, and said she was looking ill, whereupon deceased complained of the old man, saying he was just an 'auld deevil.' She seemed serious, and said she was not comfortable. She said she would come on the Sunday fortnight, which was the Sunday that she was out. She said she had something to tell me, but did not appear desirous to tell me because my husband was present. I did not see her again, and so I did not hear how she was not comfortable." Mary M'Kinnon, who was also examined for the defence, said, "I called at Fleming's house, and said to the deceased, 'Why do you never come to see me?' whereupon the deceased said, 'It is easy for you to speak. I had so much to do with the auld man; he is so inquisitive that when the bell of the door rings he must know who it was that was coming in.'" The witness Martha M'Intyre said she saw a good deal of old Fleming; that Fleming was very inquisitive; that when the servants were out he made inquiries where they were; and that he would even get out of bed to ascertain what it was when the door bell rung. It is for you to judge whether we have anything in the whole course of this case which reflects

in the least degree on the old man. It was said by the prisoner's counsel that there was a quarrel between the old man and Jessie M'Pherson. You will judge whether there was any evidence of a quarrel between them, or whether there was any misunderstanding except what may have arisen from her not liking that inquisitive character or meddling disposition which these witnesses speak of. You will consider whether there is anything that would account for the supposition that the old man had any motive for murdering her. It is not suggested anywhere that there could be any motive on the part of the old man of another kind—I mean that it is not suggested that in place of a quarrel or feeling of revenge, there was anything improper between him and the deceased, or between him and the prisoner, or anybody else, whatever that might have led to. You cannot doubt that we have everything here that can be got on both sides bearing on this case. Lord Deas

It is said by the counsel for the prisoner that a good deal has been published in the newspapers on the subject of this case, and you have been asked by him to lay all that out of your minds. I have do doubt you will do so. It is my duty on my oath of office, and it is your duty on the oath you have taken, to proceed here on the evidence you have heard, and on nothing else, and I feel quite sure you will proceed on that evidence and nothing else. It is the duty of my office, and it is your duty by the oaths you have taken, to proceed upon the evidence which has been led on both sides, and upon nothing but the evidence you have heard; and it is a comfortable reflection that while it is my duty and your duty, that there is no risk of its leading to any injustice, because you cannot have the least doubt that if anything that has been published has not been proved here, and if there is any difference between what has been published and what has been proved here, that which has been published is not correct.

Looking, then, to the evidence which has been led on both sides—on the side of the Crown and on the side of the prisoner—you will judge if the observation I make is correct, that there is certainly no trace in the whole case of anything between the old man and this woman of an improper character at any time, or anything that can be called a quarrel to lead to a desire of revenge on his part. If there are circumstances to throw suspicion upon the old man, you must ask yourselves the question, what possible motive could he have in the death of this woman? The only motive suggested is theft. Now, if he had wished to steal his son's plate, he had opportunities all the days of his life. One may easily think that if he wished to steal the plate he would have gone about it in a much easier manner than this. When the servant was away

Lord Deas from the house he might have taken it, and then said that a robbery had taken place. He might have said a thousand things that would have accounted for the absence of the plate in a far better way than this. It is for you, then, to consider whether, in order to get possession of the plate, he became a murderer. You must also consider whether he had any purpose to serve by murdering the woman. What did he gain by it? If there was no desire for revenge, if nothing had passed between them that could have led to it, is it conceivable, is there any reason we can call up, even in imagination, to account for his murdering the servant, or being concerned in the murder? And if he had employed the prisoner to murder her, that would be even more extraordinary. He employed her to do it!—a living witness who could tell all about it, and who, in that case, could have told you all the particulars of how she did it, and when she did it, and so on, and might have told you these particulars, if she had been in the box as a witness. In many cases it is of little consequence whether you ascertain the motive for the committal of the crime if it is clearly proved that a particular individual committed the murder, but it is always satisfactory to know the motive which led to the crime. In a question like this, whether the old man or the prisoner was the murderer, it is impossible that he could have any purpose to serve, and that is of great importance, if there is any difficulty about it otherwise. Now, in coming back to that which happened upon the Saturday that the prisoner came in, the evidence I have been reading brings it up to the time when she came back, about nine o'clock, and what she did on coming in. Then you have the evidence as to what follows, and the first evidence upon the subject which was laid before you was a continuation of the evidence of Mrs. Campbell. After she has told what I have already read to you about the prisoner coming in, she tells us that she immediately went out, returning again at once, going out again in the forenoon, and returning once more, going out anew between two and three o'clock, carrying a black box, and coming back soon, leaving her house in the evening with the little boy. She had, if you remember, on one of the occasions she went out a grey cloak with tassels on, which were afterwards taken off in the dyer's shop. When she comes back at night she shows Mrs. Campbell a bonnet she has bought for her little boy.

Then Mrs. Adams said, when she was shown the dress labelled No. 27, that it was the gown which she was dressed in on the Saturday. She knew it to be the prisoner's, and that it had been pawned before. You will recollect that she came in on Saturday morning with a gown that belonged to the

deceased. She changed the gown after she got her own out of the pawn. Mrs. Adams, in her evidence, went on to say that on that day the prisoner gave her pawn tickets and £2 to redeem a silver watch, dress coat, and two shirts of her husband's, and a ring of her own. The witness passed a joke on seeing the money, saying, "Whom did you rob?" Now the witness would not mean seriously that she had robbed any one. The importance of this remark lies in the surprise of the witness at the prisoner having money, coupled with the total want of it before. The prisoner said that this was the money her husband had left for the tailor, but that would have been available the day before. Then Sarah Adams, the daughter of Mrs. Adams, states that on the Saturday she went into the prisoner's house about half-past three or four o'clock, when the prisoner seemed to be writing letters. The prisoner sent her to the railway with a trunk, and gave her a shilling to pay the carriage. You will afterwards see that the prisoner gives a different statement as to this, but it did not materially affect the evidence of the witness. [After reading the part of the girl Adams' evidence, where she mentions having been sent to the railway station by the prisoner with a box, and also where she states that some months before she was sent to the deceased to get a loan of £2 for the prisoner, which she got and brought to the prisoner, his lordship referred to the prisoner's declaration, where she said she was owing the deceased some £2 odds for grocery goods. He went on to say]—To another part of the testimony of this witness (the girl Adams) I now direct your attention. The witness told you that upon one occasion two years before, when she must have been very young, for she is only twelve years old now, she was examined in a case, where some parties desired her to tell what was not true. She did it, but upon being brought forward again she stated what was true. It is for you to consider whether you have any doubt about the accuracy of the witness. If you have no reason to doubt what she is saying it is not material—it is only if you have reason to doubt her statement that it is material. You will judge from the evidence we have got here whether what she says is not consistent with what has been said by other witnesses. She says—"My mother thrashed me, and made me go back and tell the truth." You will judge, therefore, whether all that is not favourable to the honesty and veracity of Mrs. Adams, the mother, and of Mrs. Campbell, and in every way corroborates the evidence of the little girl herself.

Lord Deas

[His lordship then read the evidence of Elizabeth M'Crone and Mrs. Rainny as to the prisoner giving a brown dress to be dyed black. He said]—The witness M'Crone cannot identify the prisoner as the woman who came to her to get the dress

Lord Deas dyed, but she describes her dress as corresponding with what is now produced as her own, you have the circumstances of the tassels being taken off the grey cloak, which she had on immediately before she went to the dyer, and you have the testimony of Mrs. Rainny, who tells us positively that before she went to the dyer's she took off the brown merino gown which belonged to the deceased, and put on another dress which belonged to herself, and went away intending to go to the dyer's to get the dress she had taken off dyed black. It is for you to say whether you have any reasonable doubt that the woman who took the dress to the dyer's was the prisoner at the bar. You will remember that we have evidence afterwards of the identification of that dress—evidence of the fact that it belonged to the deceased of the strongest possible description. [His lordship then read other portions of Mrs. Rainny's evidence to prove its identification, and referred to the evidence of Elizabeth Steele, who spoke to the prisoner buying a bonnet, and the testimony of the pawnbroker, Mr. Lundie, who spoke to the prisoner wanting £6 10s. for silver plate. Referring to the statement of the pawnbroker, that it was between twelve and one o'clock when the prisoner got the money for the plate, his lordship said]—An observation was made upon that by the counsel for the prisoner, that the money paid for the rent could not have been the money raised upon the plate, because it was between twelve and one when the money was given for the plate, and it was not quite twelve when she paid the rent. You will judge how far that has any materiality. It seems very clear, so far as any one can discover, that she was totally in want of money, and whether that was part of the money which she got on the plate, or how she got it, you will judge. You will judge whether that is very material; and you will also judge whether the mere circumstance of the pawnbroker saying that it was between twelve and one o'clock is correct or that it might not have been a little before twelve. The cashier says it was before twelve, because he paid the money into the bank, and the bank shuts at twelve. The pawnbrokers might not notice the exact time, as they had no suspicion of anything at that time. You will judge whether that has much materiality in this case one way or another.

[After reading the evidence of the witness Miller, assistant to the pawnbroker in Brown Street, as corroborative of Mrs. Adams' testimony regarding the articles pawned and lifted, his lordship continued]—The next point of the case to which I will allude is the identification of the dresses of the deceased. The first material evidence we have as regards this is that of Margaret M'Lachlan, who was for some time a fellow-servant with the deceased in Mr. John Fleming's house. She identifies

the dresses found in the possession of the prisoner as having been the property of Jessie M'Pherson, and particularly the dress which had been dyed. This was the dress which the prisoner wore when she returned to her house on the Saturday morning. Mr. Clark seemed to be surprised that a female witness could look at an article and tell at once that it had been dyed; but perhaps you have had occasion to observe how much skill a female shows in distinguishing that an article has been dyed. How they know I cannot tell; but I think that very few females accustomed to handle dresses would have much difficulty in saying if the article had been dyed. This witness says distinctly that the dress had been dyed since it came into the possession of the prisoner, and we have proof elsewhere that the article really was dyed. Then she identifies the cleaver as an instrument that was in Mr. Fleming's house, and on which, you will remember, there were distinct traces of blood, although the blade had been cleaned. Then, upon cross-examination, she explains that she knew the plaid to be Jessie M'Pherson's by its having a narrow border and by its general appearance, as well as by the narrow border. The next witness, Mary Downie, identified the two cloaks, two gowns, and a polka. She had been with Jessie M'Pherson when she purchased both the cloaks. She was shown the merino gown, which the prisoner is said to have been wearing when she came back to her house on the Saturday morning, and identified it as Jessie M'Pherson's property. It has since been dyed black, but she was quite sure that it was Jessie M'Pherson's. Lord Deas

Now, gentlemen, that is the material part of the evidence—there is more evidence, but that is the material part of the evidence—as to the identity of these dresses. It is for you to judge whether you have or have not any reason to conclude that these dresses were dresses that belonged to the late Jessie M'Pherson; and upon this there is no doubt—that these dresses are traced to the possession of the prisoner, that the prisoner has them all immediately after Jessie M'Pherson's death, and that she only accounts for that by saying that Jessie M'Pherson sent them to her by a little girl, of whom we have no trace, some time the day before. The prisoner admits in her declarations that they are Jessie M'Pherson's dresses, and she accounts for the possession of them by saying that they were sent to her by Jessie M'Pherson.

The next material thing is to attend to the conduct of the prisoner on the occasion when she goes to Hamilton, and, after that, the identification of the articles found there as her own dresses. The first witness as to what took place in Hamilton is Mrs. Chassels. The prisoner was seen going out of Mrs. Chassels' house with a bundle. She had no bundle when she entered; and that bundle could only be produced by taking the articles out

Lord Deas of the box. Then all Mrs. Chassels can say as to the handkerchief given by the prisoner to the boy on the Brandon Road is, that it resembled a handkerchief in which the bundle was wrapped. This witness also states that she saw portions of the gown with a flounce at the bottom. The prisoner was quite calm, and when she left was carrying nothing but a bundle. It is distinctly proved by more than one witness that the prisoner was not in strong health—that she had been in a delicate state of health ever since she had her child, three years ago. James Chassels slightly contradicts his mother as to the time the prisoner stayed in their house. He says that it was from half an hour to three-quarters. The mother says only about a quarter; but these two witnesses were equally honest, speaking to a length of time to which they paid no attention at the moment. Mirrilees Chassels said the prisoner came to his mother's, and afterwards, on the same day, he met her on the Brandon Road, about five minutes' walk from his mother's house. She said, "Boy, here's a handkerchief; I found it. If you like you can take it home and get it hemmed." The lad also remarked that he did not see both her hands. Then John Hamilton proved that the box had been brought to the saddler's shop at the time mentioned by James Chassels, where it remained till given up to the police. Elizabeth Gibson, who kept a public-house about a mile and a half beyond Hamilton, said the prisoner asked for a half-glass of whisky, but that she gave her a whole one, her signs of fatigue were so great. She saw her go in the direction of Meikle Earnock. She was carrying a bundle; but she did not notice what the bundle was wrapped in. This witness, however, recognised the dress and bonnet which the prisoner wore at that time. Then her husband saw the prisoner go from the house in the same direction. Their daughter Margaret saw the prisoner on the road near her father's house along with Marion Fairley. She asked for a burn where she might get a drink, and was directed to a place beyond the Tommy Linn Park. She had the appearance of having a bundle below her arm. The witness says she did not see whether the prisoner went in the direction given, or only to the first oak tree. It is for you to judge what her object might be in asking for a burn, and whether she did not want some excuse for going off the road. That is matter of inference. Then, on the Sunday immediately after, this little girl says she was in the park and found clothing torn and bloody, at which she got frightened and ran home. Marion Fairley went back with her to the same place on Monday and saw the articles, but again they were not taken away till Stewart, the policeman, came. Then on the Wednesday they were again in the park, and on the road, at the foot of the hedge, they saw other articles of attire, also torn. These they recog-

nised on being shown in the witness-box. On the same day they found a piece of coburg in the Templeton Park, which Stewart, the police officer, afterwards took away. The little girl, Marion Fairley, corroborated this witness in almost every particular. Then there was the evidence of Stewart, Cooper, and Dewar, police officers, who spoke as to the finding of the articles where they were first discovered by the girls Fairley and Gibson, and that, I think, is the material evidence as to what the prisoner did at Hamilton, and as to what was found at Hamilton after she had been there. Lord Deas

Now, the main thing I have to call your attention to is the identification of these articles, which are those said to have been thrown away by the prisoner at Hamilton, and found by the officers, as being parts of clothing belonging to the prisoner. The first fact about that was the evidence of Smith, the officer, as to the sleeve found in the prisoner's house, being the sleeve of the gown found in tatters at Hamilton. Then came the evidence of Mrs. Campbell with reference to the thirteen pieces of petticoat, as being very like portions of a petticoat the prisoner had. On one occasion, when it was washed, the witness remarked that it was very stout, and the prisoner said that it was made out of a blanket, and these pieces corresponded with that description. Then it would be observed that Mrs. Adams, another witness, recognised the pieces of flannel as being portions of a petticoat of the prisoner. She had washed the petticoat sometimes, but not very often; and she knew that it had been made out of a blanket. She knew about it at the time it was made. On being shown the coburg sleeve the same witness identified it as the sleeve of the gown found covered with blood. Then she gave evidence to the effect that she recollected the prisoner saying, "I must get money somewhere." In the cross-examination as to the dress, she said that it appeared to be dyed, and stated, in answer to repeated inquiries, that anybody could tell that the dress was dyed, and that she knew by the smell of it that it was so. She is asked to look at three pieces of cloth, labelled 20, and she says, "that is a flannel petticoat," and, when questioned how she knows it to be a petticoat, answers, "I know it must have been a petticoat." Again, when asked to look at the other flannel petticoat, labelled 24, she says, "I have not seen that before except at the County Buildings." Then Mrs. Adams is shown the thirteen pieces of woollen cloth, labelled 20, and says, "I recognise them. They formed a petticoat belonging to the prisoner. I have seen her wearing such as this." Shown six pieces of wincey No. 21, she says, "I have seen the prisoner wearing a petticoat like this." Shown twenty pieces of coburg, and recognises them as belonging to the prisoner. Shown a portion of a sleeve, and replies it is the sleeve of the same

Lord Deas wrapper above referred to. Then, being shown the crinoline wires, she says, "I got these from the prisoner for my little girl." It does not appear that the mother did actually give them to her daughter Sarah. Shown brown dress No. 30, she replies, "That is one of the deceased's dresses." Then you have the evidence of Jane M'Gregor, the dressmaker, who says, "I have made dresses for the prisoner." Shown the twenty pieces of coburg cloth, she recognises them "as like the colour of a dress she made for the prisoner about three years ago." Then the sleeve is shown her, and is recognised as the sleeve of the dress, which the twenty pieces composed. Shown a black dress, she says, "I never saw that dress before." She is asked how she thinks the sleeve belongs to the same wrapper, and replies that "it has the appearance of being the sleeve of that dress." That is the evidence of the dressmaker. Her evidence only goes to this, that these pieces of coburg are like the dress she made for the prisoner three years ago, but she cannot positively swear that they are the same; and you will not be surprised that the dressmaker could not swear positively with regard to a dress she had made so long before. I think that the evidence of the dressmaker, coupled with the evidence of those who knew her dresses—the washerwoman and the people about the house—is material evidence of those dresses having belonged to the prisoner. And upon the whole of that evidence, and apart altogether from any admissions or statements that the prisoner may have made in her declarations, you will ask yourselves the question, whether that evidence does not go to establish the material facts which lay at the bottom of this part of the case, namely, that the prisoner left her house on Friday night, dressed in that same gown which was afterwards found torn to pieces and covered with blood at Hamilton, and that she came back wearing a dress which belonged to the deceased, that she then took it off and went to get it dyed black, that she then went to Hamilton, and went to those four different places where she distributed her own clothing, all torn to tatters, and which were afterwards found by the police, and found covered with blood, not only apparent to the common observer, but proved by Professor Penny, as matter of skill, to be the sort of blood which might be expected if it was human blood, or the blood of the deceased.

It is for you to consider whether you can have any reasonable doubt that these facts and circumstances bring home the guilt of this offence to the prisoner. I need hardly say to you that you cannot expect in a case of this kind the testimony of eye-witnesses. Murders are not committed before people's eyes; and if it were necessary to have direct evidence of murder, it would be very easy to murder anybody without

detection, and we might have a murder committed every day. That is not the law; and I do not think you will be of opinion that that should be the law. The law is, that if the facts and circumstances when all put together lead to the inference that the party accused is guilty of murder, that is quite sufficient. The counsel for the prisoner, with his usual judgment, did not say to you that you were not to go upon circumstantial evidence. He said that if you proceeded upon circumstantial evidence, you must have facts and circumstances which do not admit of reasonable doubt. There may be circumstances of suspicion which might be explained away. You will consider whether the circumstances of suspicion said to be directed against old Fleming in this case would or would not be unsafe to go upon. But you will also consider whether such circumstances as we have here are or are not safe to go upon when they are all put together. Mr. Clark in his address referred to a case where three parties were tried, and they were all convicted. It came out afterwards that one of them was innocent, and that shows the danger of convicting people upon such evidence as we are now going upon. I presume we are not to infer from this that because one person was convicted who turned out to be innocent, nobody is ever to be convicted again. We are not come to that yet. I do not know that the person alluded to in that case was found to be innocent. The party who was so convicted upon that occasion, and who got that sentence, had his sentence remitted. Whether he was innocent or not we cannot tell. The Crown must have thought that there was such doubt about the matter that it was right to set him at liberty; but I am afraid that, if I know anything about that case, it is not a very good instance of what it is quoted to you for, viz., the injustice of going upon circumstantial evidence. I rather suspect that if a mistake did occur it is an instance of the danger of direct testimony rather than of circumstantial evidence. A witness might look on at a thing taking place, and think he saw a person when it was not that person at all. A man might state that he saw people come to a house at night when it was not that house at all; and say that he saw people come out of one house when he saw them come out of another. The mistake, then, if there was a mistake at all, was in thinking that the man was one of the men. It is one of the risks of direct evidence that the witness may be altogether in a mistake. There is always a risk when a witness says he saw a thing that he is not telling that which is true, or that he might be mistaken about the person, or about the whole matter. Circumstantial evidence, if sufficiently clear, is more safe sometimes than direct evidence. In some respects the evidence of direct testimony may be more satisfactory than circumstantial evi-

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Lord Deas dence, but in many other respects it is often neither so safe nor so satisfactory. Circumstances cannot lie. There can be no combination—there can be no conspiracy in such a chain of circumstances as we have here. There can be no laying of heads together by so many different people to frame the various parts into one connected story. The only possible error is that we may draw a wrong inference from the facts. There is a possibility of error in everything human. We have no absolute certainty, in one sense, about anything. It is always possible that we may be in error. The possibility of error is only excluded in the Deity. But what you and I have to consider is whether, as reasonable men—with the reason that God has given us—looking to the whole chain of circumstances before us, we are led to one reasonable conclusion. If there is any doubt in the case, the prisoner is entitled to the benefit of it; but it must be a reasonable doubt. It is not enough to say it is explainable, or that something else might have happened. If you have no reasonable doubt, then your duty to your God and to your country is to give that conclusion effect, whatever it may be.

But, gentlemen, I must call your attention to this before I conclude, that the evidence, whatever opinion you may form upon it, must be taken in connection with the declaration of the prisoner; and, on the one hand, whatever reasonable explanation it affords you will accept; and, on the other hand, whatever evidence it contains which is to be taken as against the prisoner must be taken along with the whole of the other evidence in the case. Now, I shall not read this declaration to you at length, but I shall state to you what seems to be the substance of the declaration. I shall be corrected if I state anything wrong. I would have followed it out verbatim, but I am afraid the observations which I have already addressed to you may be more than you think is altogether necessary, and no doubt must be very fatiguing to you after the long time you have sat in that box. But the reason why I have read so much of the evidence, which in many cases I do not think necessary, is that I wish you not to judge of the evidence by any observations of mine, but to judge of the evidence by itself; and in wishing you to judge of the evidence by itself, without reference to my observations, I thought it right, after so long a trial as this, to lay before you the substance of the evidence, and also of the prisoner's declarations. In the first declaration she says she was a fellow-servant of the deceased two years before September, 1857, when she was married. "Since then," she continues, "I have kept up an intimacy with her except for a period of eighteen months prior to January, 1861, during which time she was at service in Manchester." She says

she was not in or near Mr. Fleming's house on the evening of Friday, the 4th, or morning of Saturday, the 5th of July. "On said Friday, the 4th July, I was in my own house the whole day till about seven o'clock at night, when I went to see Mr. M'Farlane, who had been factor for my house prior to Whitsunday, but he was not in then, and I returned home. I was not again out of my house till after ten o'clock, when I went out to convoy home Mrs. Fraser, a seaman's wife, who lives in Grace Street, Anderston. I intended to go to the house of James M'Gregor, a foreman clothier, who lives in Main Street, Anderston, and who is a friend of my husband, but I changed my mind. I reached home about a quarter-past eleven o'clock. I let myself in by means of a check-lock key, and which is in the house." You remember, gentlemen, that a search was made for that key; every key in the house was tried, and no such key has been found. It would have been of very great importance if there had been such a key. She says she let herself in by means of it. Mrs. Campbell says they always let each other in. Then the prisoner goes on to say, "It is one of the keys of the press in the lobby in my house, and for which press there are two keys." They were all tried, and you will remember they did not fit. She says that she went in with John M'Donald, but Mrs. Campbell says she herself let him in. She says, "I went straight to bed without speaking to Mrs. Campbell." This declaration, you will remember, was not taken till 14th July, so that she had plenty of time to learn that John M'Donald had returned to the house that night. She adds, "I remained in bed till between seven and eight o'clock." Mrs. Campbell says she was not in bed at half-past five, when she found the child alone, and when she took it up and gave it breakfast. Then she says she went for some coals (that is to account for the bundle she brought in), and that she got them from the man at the coal depôt. She has not produced anybody to say who sold the coals to her. The prisoner further says that on Friday night the old man gave her the plate in the parlour of her own house. But to this, again, Mrs. Campbell says that she never saw the old man in the prisoner's house. The prisoner says that the old man came back at a quarter to three on the Saturday afternoon; but, again, Mrs Campbell states that she never saw the old man at all. As to the question whether the prisoner was a person of improvident habits, it is not one with which we have to deal, nor the question what was it that the prisoner did with her husband's wages. As to the dress that was taken to Murray (the dyer) the difference between her statement and that of the witnesses is, that it was her own dress, while the testimony of the witnesses was to the effect that it was the

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Lord Deas deceased's. She admits she took it, and she says that she gave her own name, but it has been stated in evidence that she gave the name of M'Donald. The prisoner stated in her declaration that she did not call upon Mary Adams to look after her child. But this statement was denied by Adams. Then as to the wires of the crinoline, which the prisoner stated she gave to Mary Black or Adams, they were sent to Professor Penny, who found traces of blood upon them. The prisoner also said that the petticoat she wore when she was apprehended was the only one she had. It is for you to judge if that statement can be reconciled with the evidence of the witnesses, that the petticoat which was found in shreds belonged to her. Then she admits sending the box to Hamilton, but says that it was empty, and that she took the clothes with her in a black leather bag, and says that her object in so doing was to take lodgings there, with the intention of staying there, but you will judge whether that is a probable case under the circumstances. Then, she is asked about certain articles of clothing which belonged to Jessie M'Pherson, and she said she had not seen any of these articles lately, either in the deceased's possession or anywhere else. That is what she said before she was shown the articles, and her counsel complained of her being questioned before seeing these articles, but I need found no observations upon that. You will see what she afterwards said about them. On being shown several dresses she says she recognises these to be those of Jessie M'Pherson, and tells how M'Pherson had sent them to her by a girl about five o'clock on the said Friday, in order that she might take some of them, which she specifies, to the dyer's, some of them to be altered, and so on. You will consider whether the other evidence as to the identity of these dresses being Jessie M'Pherson's, taken in connection with the prisoner's statement that they were all Jessie M'Pherson's, does or does not leave any doubt as to their identity. Why Jessie M'Pherson sent all these articles to her by the little girl to be sent for the purposes stated, instead of sending them herself, the prisoner does not explain. Nor does she particularly explain how that long message was so carefully delivered by a little girl. She said they were wrapped up in a piece of green cotton cloth, but she had said a little before that she had never seen that cloth. She states further that she had heard of the murder on Tuesday night, and, having the clothes in her possession, she became alarmed, and got them sent to Ayr. Further, on being shown the articles of dress found at Hamilton, she declares that they never belonged to her, a statement which, however, is met by the evidence for the Crown. [Having gone over the other parts of the declaration,

his lordship said]—That is the substance of the declaration. Lord Deas Have you anything to suggest, Mr. Clark.

Mr. Clark—No, my lord.

Lord Deas—Anything that I have stated wrong, or omitted, I shall be happy to go back upon. Now, gentlemen, that is the declaration of the prisoner, which you are to take in connection with the evidence I have brought before you, giving you the substance of that evidence in the very words the witnesses gave; and I have to ask you to form your opinion on that evidence, without reference to anything beyond it. I have further to ask you to form your own opinion on the declaration, taken in connection with the evidence, to consider these parts of it, which you think may go to confirm the testimony of the witnesses in the case for the Crown, along with those parts of it, or the whole of it, if you think proper it should be so, which go to explain the conduct of the prisoner; and having considered the whole of the evidence, and the prisoner's declaration, you will make up your minds whether the substantial facts on which the Crown relies to bring home guilt to this prisoner are, or are not, proved to your satisfaction. And if, as reasonable men, there is no doubt left in your minds as to the guilt of the prisoner, I need not say what your duty is to yourselves, to your consciences, to God, and to your country. But if, notwithstanding all that evidence, you think there are reasonable grounds for holding that the prisoner may be innocent, you also know the course you have to follow. The case has been most fully brought before you, and most ably treated on both sides. It has received from you as great attention as ever I saw paid by any jury, and I have no doubt you will perform your duty conscientiously, whatever that duty may be.

At twenty-five minutes past two the jury retired to consider their verdict, and returned to Court at twenty minutes to three o'clock.

The Verdict.

The Clerk of Court—Gentlemen, what is your verdict?

The Foreman—My lord, the jury are unanimously of opinion that the prisoner is guilty of both charges as libelled—guilty of murder and theft.

Mr. Gifford—My lord, I move for sentence.

[The breathless silence which had pervaded the Court-room during the announcement of the verdict was instantly broken by the buzz of conversation regarding the result at which the jury had arrived. Many keen glances were cast at the prisoner; but beyond a nervous twitching of the mouth, which she endeavoured to conceal by her handkerchief, her demeanour

was as calm as ever. While the sentence was being written out by the Clerk of Court an earnest conversation was carried on between the prisoner and her counsel; and when Lord Deas put the usual question whether the prisoner had anything to say why judgment should not be pronounced against her,]

Mr. Clark—My lord, I understand that the prisoner desires to make a statement before sentence is pronounced, either by her own lips or to be read by some one for her.

Lord Deas—She is quite at liberty to do so in any way she prefers.

The Prisoner [throwing her veil off her face and standing up in the dock, in a loud and distinct voice]—I desire to have it read, my lord; I am as innocent as my child, who is only three years of age at this date.

Mr. Clark then read the following document:—

Mrs. M'Lachlan's Statement.

(Made on 13th August, 1862.)

On Friday night, the 4th July last, I went up to Fleming's to see Jessie M'Pherson. I had been up seeing her that night fortnight, and had promised to come up again that night. We generally arranged a Friday night for my coming, as she had then most time, none of the family but the old man being at home, and I usually went late to let the old man away to bed, because, being of a jealous and inquisitive turn, he prevented us from talking freely. The old man was always very glad to see me, and very civil any time he happened to be in the kitchen when I went to see Jessie. I had put my child to bed about half-past nine. I told Mary Black in the morning I was going up to see Jessie, and asked her to come and take charge of him till I returned, but she did not come. As I did not expect to be long out and he was sleeping, I did not give Mrs. Campbell any charge, but I knew she would attend to him if he wakened. I had put on my things to go out when Mrs. Fraser came in. Mrs. Campbell opened the door for her. Mrs. Fraser had her two children with her. I told her that my sister Ann intended to go to Australia, and I wanted her to write a certificate of character for her. She began to do so. I went into the kitchen to the press, and took Mrs. Campbell's bottle. Mrs. Campbell was in bed, but her clothes were not off. I took a little black basket with me, and Mrs. Fraser's boy, Tommy Fraser, and went up to Monteith's shop in Argyle Street and purchased a gill and a half of rum, and paid 7½d. for it. I meant to give Mrs. Fraser a dram, and have a dram for Jessie, and enough to taste with them. I

came down, and Mrs. Fraser opened the door and let me in. I gave Mrs. Fraser a glass out of the bottle, and took about half a glass myself. I also bought some biscuits when I was out and offered them to her. After that I put the bottle and biscuits into my basket. I told her I had been intending to go to James M'Gregor's to get the certificate written, but she would do as well. She had stopped writing when I was out, as she could not please herself with it that night, and I said I would call on her next night and get the certificate written. I said M'Gregor's child had been ill, and that I had not been there for some time, and that I ought to have gone to see them before this. We also spoke about Mrs. Fraser's husband being expected home. It was ringing ten as we went down our stair. I took the basket and bottle with me. We parted at the Gushet House about ten minutes past ten. I went up North Street to the house of Mr. Fleming in Sandyford Place. I went to the front door, and Jessie answered the door. She told me the old man was in the kitchen, but took me downstairs. The old man was sitting in the big chair in the kitchen when I went in. He said, "Oh, is that you, Jessie; how are you?" There was bread and cheese and a tumbler and glass and two plates on the kitchen table. I sat down on a chair at the end of the table next the door. Soon after the old man, without saying anything, rose and went upstairs. I gave Jessie the bottle I had brought. She filled out a glass of rum for me, part of which I took, and then poured out a glassful for herself, and took it, and she put the bottle away into the press. Soon after the old man returned with a bottle and glass in his hands. He filled out scarcely a glass of spirits and gave it to me. I tasted it, and he told me to take it up; but I did not, and he poured the rest back into the bottle. Jessie, in a displeased way, said to him that wasn't a way to treat any person—that he ought to put it round. He said, "You ken, Jess, we've had twa three since the afternoon"—that he wouldna mind, but that Mr. Fleming had said before when they were left in the house that they had done weel in drink, and spoke about their using so much, although the old man said it had been used by young John. He added, "However, if ye'll haud your ill tongue, I'll gi'e ye half a mutchkin, if ye'll go (or sen') for't." She said, "Aye, I've a tongue that would frighten somebody if it were breaking loose on them." The old man said something as if to himself, but I did not hear what. He poured the whisky into a tumbler on the table, and handed the bottle to me, and at the same time gave me 1s. 2d., and bade me go out for a half mutchkin. The bottle was one with a long neck and round, flat bottom. Jessie gave me the key of the back door into the lane, and I went out by the kitchen back

door, leaving it open, and locked the lane door after me, and went down Elderslie Street, and along the first street that crosses it as you come out from the lane, and along to North Street, to a whisky shop in North Street, very near right across from the end of the first street where it leads into North Street. It is a shop near the top of North Street, on the right hand side coming up from St. Vincent Street, and not far from Mr. M'Gaw, the flesher's. It would be a minute or two after eleven o'clock when I got to the shop. It was shut, but I knocked twice or thrice, as there was a light inside visible at the top of the shutters, but I did not get admittance; so I came back along Sauchiehall Street and down Elderslie Street, and round the corner into the lane behind Sandyford Place. I saw Mrs. Walker, the grocer's wife, standing at her own close mouth, with her bonnet and shawl on, and another person, whom I did not know, speaking with her. When I got to the back of No. 17 Sandyford Place I opened the lane door and went in, and locked the lane door behind me. I found the kitchen back door shut, which I had left open. I knocked, but received no answer. I then went to the kitchen window and looked in. The gas was burning, but I saw nobody in the kitchen. I rapped at the door with the lane door key, and after a little old Mr. Fleming opened the door. He told me he had shut the door on "them brutes o' cats." I went into the kitchen, and put the money and bottle on the table. The old man locked the door, and came in after me. I told him the place was shut, and I could get nothing; I then said, "Where's Jessie? It's time I was going away home." He went out of the kitchen, I supposed to look for her, and I went out with him. When in the passage, near the laundry door, I heard her moaning in the laundry, and turned and went in past the old man, who seemed at first inclined to stop me. I found Jessie lying on the floor, with her elbow below her, and her head down. The old man came in close after me. I went forward, saying, "God bless us, what is the matter?" She was stupid or insensible. She had a large wound across her brow and her nose was cut, and she was bleeding a great deal. There was a large quantity of blood on the floor. She was lying between her chest and the fireplace. I threw off my bonnet and cloak, and stooped down to raise her head, and asked the old man what he had done this to the girl for. He said he had not intended to hurt her—it was an accident. I saw her hair all down, and she had nothing on but a polka and her shift. I took hold of her, and supported her head and shoulder, and I bade him fetch me some lukewarm water. He went out into the kitchen. I spoke to her, and said, "Jessie, Jessie, how did this happen?" and she said something I could not make out.

I thought he had been attempting something wrong with her, and that she had been cut by falling. He did not appear to be in a passion; and I was not afraid of him. He came in again, bringing lukewarm water in a corner dish. I asked him for a handkerchief and some cold water, as the other was too hot. He brought them in from the kitchen, and I put back her hair and bathed away the blood from her face, and saw she was sore cut. I said to the old man, "However did he do such a thing as that to the girl?" and he said he did not know, and seemed to be vexed and put about by what had happened. I asked him to go for a doctor, but he said she would be better soon, and he would go after we got her sorted. The old man then went ben the house again, and I supported her, kneeling on one knee beside her. In a little she began to open her eyes, and come to herself, but she was confused. She understood when I spoke to her, and gave me a word of answer now and then, but I could get no explanation of things from her, so I just continued bathing her head. I bathed it for a long time till she got out of that dazed state and could understand better. I asked her whether I would not go for a doctor, and she said, "No, stay here beside me." I said I would. I did not trouble her much with speaking to her at that time. While I was sorting at her head, the old man came into the room with a large tin basin and water and soap in it, and commenced washing up where the blood was all round about us, drying it up with a cloth and wringing it into a basin. I had raised Jessie to sit up, and was sitting on the floor beside her. As he was near us he went down on his elbow, and spilt the basin with a splash when he was lifting it. He spilled the water all over my feet and the lower part of my dress, and my boots were wet through. After Jessie had quite come to herself, I tied a handkerchief, which the old man brought me at my request, round the cut on the brow. I assisted her to rise off the floor, and took her over to a chair near the bedside. She was very weak and unsteady on her feet, and she asked me to put her into bed. I was not able to do it, and I asked the old man to help me, and we put her into bed just as she was. After she was put into bed I continued bathing away the blood from the nose, which continued bleeding a little. When put to bed I took a crochet night-cap, which was hanging on the looking glass, and put it on the top of the handkerchief. The old man was drying and redding up the blood and the water that had been spilt over where Jessie had been lying. When she was put to bed she appeared to be getting weaker, and lay with her eyes shut, and I said to the old man that the doctor should be got now. He came and looked at her, and said, "No, there was no fears, and that

he would go for the doctor himself in the morning." I thought she was asleep, but she had heard what was said, and, turning her eyes to me, she said "No." I understood her to mean that she did not wish a doctor brought at present. She lay in bed till the morning was beginning to break, or till, as I supposed, it would be well on to three o'clock. She had been sleeping, and gradually came to herself again, and I thought there was no danger. Latterly she spoke a good deal to me as I sat by the bedside when the old man was out. He sat a while by the bedside after redding up the floor, but he rose and went ben to the kitchen, and was going about both ben the house and upstairs. I heard him chapping up the fire and moving about; and when I went ben to get her a drink of water I observed he had put the teapot to the fire, I supposed for her. He was but and ben several times, but afterwards came and sat down at the bedside, and remained there till she rose. I was twice in the kitchen during this period; once when I went in for water to her, and once when I took ben my boots and stockings (which I took off after the water was spilt on them) to the kitchen fire to dry. She told me that on a Friday night some weeks before there was a gentleman in the house, who had remained all Thursday night in it, and until the Friday afternoon, when he left, and that old Mr. Fleming convoyed him to the station. She said he was a brewer, and she mentioned his name; but I can't remember it; and that the old man left with him at four o'clock in the afternoon of the Friday she spoke of, and that he did not return till eleven o'clock, when he was gie 'en tipsy. He asked her to help him off with his coat, which she did, and then she went downstairs, and to bed. She said that between one and two in the morning he came down to her room, and in alongside her into the bed, and tried to use liberties with her; that she made an outcry about it, and was angry then, and spoke to him next morning about it, and said she would tell his son, her master; that he begged her to say nothing about his having done so, or that he had come home the worse of drink; that unless for the drink he would never have done it; that there had been words between them ever since; that the old man was in terror in case it would ever come out about what she had told me, and that he had offered her money, but that for her own character she never meant to tell Mr. Fleming upon him. But she said she was going to Australia at any rate, and that she was determined to make the old rascal pay well before she left, and she would make him pay for this too. She said that after I went out for the half-mutchkin they had a great quarrel, and he was very angry because he had thought when she said that about her tongue breaking loose she was hinting a threat to

tell me. She said they had words on the same subject during the day, and when it began again on my going out she left the kitchen to take off her stays, which were uneasy, and that she took them off, and had her petticoats untied after that, when she was struck by him. She had given him some word on leaving the kitchen, and he was flyting and using bold language to her in the lobby after she was in the room, and she was giving him it back while loosing her stays; and that when he was there and going to take them off she went and shut the door to in his face, and that he came back immediately after and struck her in the face with something and felled her. What I have stated was told me by Jessie during the time I sat with her. It was not told me all at once, but it is the substance of what she said. We did not speak on any other subject. She also asked me if she was badly cut, and I said she was, and she said when the doctor came in the morning she would need to tell some story or other how she got it. I asked the old man once, when he came into the room, how he had ever allowed himself to be provoked to strike the girl after his own doings with her. He did not give me a direct answer, but just said it couldna be helped now, although he was very sorry, but he would make everything right to Jess, and make up for it as Jess very well knew, and if I would never mention what I had seen, he would not forget it to me. I said it was a great pity I had anything to do with it, and that I did not know what to do, as I had left my child without anybody in charge of it. Jessie said the lodger would take care of him; that I could go away before the doctor came, but that if she must tell about this in the morning, or when Mr. Fleming came home, she was afraid she would just have to tell who did it and why. This was before the old man, who said, "No, no, Jess, ye'll no need to do that"; and he begged me never to say anything about this matter, and he would put everything to rights. I said I had no occasion to speak of it, and I promised never to mention it, and Jessie and he could take their own way. He would not rest content till I would swear it, and he went upstairs and brought down the big Bible with a black cover on it, and in presence of Jessie he made me swear on the Bible, by the Almighty God, that I would never tell to man, woman, or child anything I had seen or heard that night between him and Jess, and he said he would swear never to forget it to either her or me. He said that he would make her comfortable all her life. After this he sat at the bedside. About three o'clock, I would suppose it was, Jessie told him to go away ben the house. He said he was very weel where he was. She told me she wanted to rise and make water, and she got up in bed. I told the old man to go away for a little, which he did, and I helped her out and assisted her. She said after she rose

that she felt very stiff and cold, and if she could get ben to the fire. I put a blanket round her, and I called to the old man, and he and I took her ben to the kitchen. She walked ben, assisted by us, but I think she could have gone herself. She sat down at the kitchen fire on the floor, on a small piece of carpet. The old man, at my bidding, went ben to the bedroom and brought ben the pillow and bedclothes; and I put the pillow under her head, and the blankets on her, and tucked them in below her. Some time after that she fell asleep for a while, but wakened, and complained that she was too near the fire, and moved herself, with our help, without rising from the floor to her feet, away from the front of the fire, and turned herself, so that she lay with her feet in towards the fire and her head further from it, and between the table and the press, or in that direction. She lay in this position for a good while. The old man was sometimes about the kitchen where I remained, and sometimes going about the house. He was ben in the bedroom more than once. After lying there in the kitchen a considerable time, Jessie got restless and uneasy, and complained of feeling worse. I thought she was getting sick, and I brought her water. In a very short time (I would suppose at this time it would be between four and five) she got worse very rapidly, and she said to me to go for a doctor. With that I drew on my boots, and went into the bedroom, and threw on the French merino dress which was hanging there over my own, as it was all wet and draggled, and I put on my cloak and bonnet. As I came out of the bedroom the old man was coming down the stairs, and I said to him that Jessie was very ill and I was going for a doctor; where would I got to? He said he didna ken where any doctor lived near, but wait a minute till I see how she is. I knew there was a doctor in the neighbourhood, and, without waiting for him, because I thought he did not want a doctor, and I wished one brought at once, I went upstairs to the front door, but found it locked, and the key was not in it. I went down into the kitchen again, and he was leaning over Jessie with his hands on his knees, looking at her. I went forward and asked him for the key, and saw that Jessie had become far worse than when I left her. I thought she was dying. She appeared to be insensible, but not dead, as she was moving. It was the first time I thought she was going to die, and I said the girl was dying, and I insisted on him letting me out for a doctor. He said he would not. He would do it in his own time. I went upstairs again and into the parlour, and opened the shutters, and put up the back window to see if I could see any one stirring about the back of No. 16, or the other houses, but saw no one. I was leaving the parlour to go into the dining-room to look out in front, when I heard a noise in the kitchen, and I turned down-

stairs as fast as I could, and as I came in sight of the kitchen door I saw the old man striking her with something which I saw afterwards was the meat chopper. She was lying on the floor with her head off the pillow, a good piece along the floor, and he was striking her on the side of the head. When I saw him I skirled out, and ran forward to the door, crying to him, and then I got afraid when he looked up, and I went back up the lobby and part of the stair, where I could not go further, as I got very ill with fright and palpitation of the heart, to which I am subject. My fright was caused by hearing him coming out of the kitchen, and I thought he meant to murder me, and I stopped and leaned or held to the wall on the stair without the power of moving, and began to cry, "Help, help." He came to the stair-foot, and cried to me to come down, he was not going to meddle me. I saw he had not the cleaver in his hands as he came; and I cried out, "Oh, let me away, let me go; for the love of God, let me go away!" He said he would do me no harm. I said the girl's killed, and what was I going to do, and entreated him to let me away. He came up and took me by the cloak, and said "I kent frae the first she cou'dna live; and if any doctor had come in he would have to answer for her death, for she would have told." I was crying, and said, "Oh, what am I to do, out of my house all night, and Jessie killed?" He said, "Don't be feart, only if you tell you know about her death you will be taken in for it as well as I; come down, and it can never be found out." I went down to the kitchen in great agitation. I did not know what to do. I was terrified, because I was in the house and saw the body lying there, and myself connected with her death. He said, "My life's in your power, and yours is in my power," but if both of us would keep the secret it never could be found out who did it, and that if I would inform on him he would deny it, and charge that I did it. He said it was as much as our lives were worth if either of us would say a word about it. So he bade me help him, and to wash up the blood from the floor, but I said I could not do it if I should never move. He took the body by the oxters and dragged it ben into the laundry, and took the sheet and wiped up the blood with it off the floor. The sheet and the blankets he had thrown up off the floor on to the end of the table; and when he took off the sheet to wipe up the blood I saw the chopper all covered with blood lying beneath it, or else it rolled out of it on to the table. I beseeched and begged of him to let me go away, and I would swear never to reveal what I had seen, in case of being taken up for it myself as well as him. He said that the best way would be for him to say that he found the house robbed in the morning, and to leave the larder window open. He brought the dresses from Jessie's room into the kitchen, and said that if

I would take them away, and buy a box, and take them by some railway out of the way to some place, or to send the box to some address by the railway to lie till called for, that it never could be found out what had become of the clothes. He said I knew very well that he liked Jess, but he was sure from the first that she was not able to recover from what he had done to her at first; and when I asked him what tempted him ever to strike her, he said I knew Jess had a most provoking tongue, and that she had been casting up things to him, and he was mad at her; that he had no power of speaking whiles when she was at him, and that he had just struck her in a passion; and that even on the Sunday night before he had been just on the brink of doing the same thing to her. He " dichted " up the floor and the lobby with a clout, and took ben the blankets and the sheet, and the hacking knife, and the bit carpet into the bedroom. He came back and burned some things, I don't know what—clothes of the girl's. He got some water at the sink in a tin basin and washed himself. He had taken off his coat, and was in his shirt sleeves since after the time he killed the girl. His shirt was all blood when he took it off to wash himself, so he put it into the fire. He put on a clean one off the screen, and went ben to his own room and changed his trousers and vest, I think. He went down to the cellar for coals, brought them up, and put them on the fire. The bell rang; he bade me open, but I said, " No, I'll not go to the door; go you." It was the milkboy. The old man took no jug up with him. He was in his shirt sleeves when he went up, but in a coat when he came down again. He brought no milk with him. After that he brought the plate, and said I had better take this too, and take and pawn it in Lundie's pawn, in the name of Mary M'Donald or M'Kay, No. 5 St. Vincent Street, and nobody could trace it. He afterwards said I had better not pawn it, but put it away in some place with the dresses. He told me that I would get a tin box in any ironmongers for 5s., and to take the things through to Edinburgh, where I was not known, and find some water where they could be sunk and never heard of. He took out his purse and gave me £1 7s. I consented to take the things, and promised never to breathe a syllable of what had passed. He said if I did it would be my life as well as his, and that he would set me up in a shop, and never see me want. I went out from the house after eight o'clock, it might be half-past eight, taking the things in a bundle. He opened the back door for me, and came down and opened the lane door with the key. I went along the lane westward, and home down by Kelvingrove Street, along the Broomielaw, where I met the people coming from their work, and I went up Washington Street to avoid them, and

down James Watt Street again, and in by the back court into my own close by the court door, and up the stair, where Campbell let me in.

I never had any quarrel with Jessie. On every occasion we were most affectionate and friendly. I was not pressed for money. I paid my rent on Saturday, 4th July, before I pawned the plate. I paid £4.[1]

JESSIE M'LACHLAN.

[While Mr Clark was reading the above paper, which occupied about forty minutes, the utmost stillness prevailed throughout the Court, every syllable being listened to with eager and breathless attention by the crowded assemblage, among whom a general murmur of excitement prevailed the moment the last words of the document were read. The prisoner remained calm and apparently unmoved during the entire reading of the document, with the exception of a slight restlessness in her manner once or twice as references were made to the deceased.]

The Sentence.

Lord DEAS (addressing the pannel)—Jessie M'Lachlan, according to the evidence led before us, the position in which you now stand is this—You are a member of a respectable family in Inverness. You were at one time a servant in the house of Mr. Fleming, and had an opportunity, both then and subsequently, of being well acquainted with everything in that house, and with the habits and state of the family in that house. You were married to a husband apparently respectable in his position in life—for it is not position in life which makes respectability, but the conduct of the individual. It was stated upon your behalf that he was earning wages of 30s. per week, and that he freely gave you the use of these wages. You had only yourself and one child to maintain, and although not in strong health, if your habits and conduct had been what they ought to have been, you could not have had much difficulty in maintaining yourself and child with those wages. It has been stated by your sister and by witnesses on your behalf that your brother was in the habit of giving you money, all indicative of the propriety of conduct and respectability of the family to which you belong. Nevertheless, whatever you did with the money, you were very much in

[1] This last paragraph, though read in Court by Mr. Clark, did not appear in any of the published reports. See Appendix III., *Papers relating to the case of Jessie M'Intosh or M'Lachlan, ordered by the House of Commons to be printed, 19th May, 1863; evidence of Joseph Anthony Dixon.* It is here printed from the original signed statement of the pannel, consisting of twelve pages folio, in the Justiciary Office, Edinburgh.—Ed.

want of money upon that Friday, the 4th day of July, of which we have heard so much. The deceased Jessie M'Pherson was your most intimate friend. You had been in service with her for a long time in the same house. She had trusted you with grocery goods when she had a shop, and it was said by one witness that she had lent you money not long before this when you asked for it. It is at all events certain that she was also towards you most kind and affectionate, and there can be no doubt she would have trusted you beside her by day or by night, and the last thought that would come to her mind was that her life was in danger at the hands of you, her most intimate and, apparently, her most affectionate friend. In that state of matters you left your own house on Friday night and you went to the house in which Jessie was residing, and would, of course, have no difficulty in getting admission there. You would have no difficulty in getting her permission, if you had any plausible excuse for it, to stay with her and sleep with her all night. It is now stated, upon your own confession, you did remain there all night. In the course of that night, at what precise time and in what precise manner we do not know, but in the course of that night, probably when she was asleep, you did attack her with that cleaver we saw here, or some other deadly instrument, and did disable her, and though she apparently recovered to some extent from the first blow, you did repeat those blows till you made on her body all the numerous wounds spoken to by the medical witnesses, the result of which was her death. Whether you did that in bed or in the kitchen—whether partly in the one or partly in the other—whether, after you had disabled her in bed when she was asleep, she had so far recovered as to struggle into the kitchen, and you there continued your bloody work, and dragged her body back to that room after she was disabled in the kitchen—all these particulars we do not know; but we know this, if we go by the evidence which has been adduced, that upon that night you did most barbarously and most cruelly murder that unsuspecting woman, who believed you were up to that hour the best friend she had in the world. Of that crime you have been convicted by the unanimous verdict of as attentive and intelligent a jury as I ever saw in the box, after a trial of very unusual length, conducted with the greatest possible patience, all the inquiry having been pursued with the greatest possible care, and when your defence has been conducted in the ablest manner in which a defence could be conducted, and by a gentleman, as I said before, than whom there is no more able counsel at the bar of this country. Everything has been done for you that talent and judgment could do, and after all the attention they have been able to pay to the case, you have been found guilty by the unanimous verdict

of the jury, a verdict in which I entirely concur. You chose to put in a defence to the effect that a gentleman, whose character up to this time has been quite unstained, was the murderer; you have chosen to repeat that statement now with all the details to which we have just listened.

The PRISONER—Well, my lord——

[Here the officers of Court motioned to the prisoner to be silent, and she at once desisted.]

Lord DEAS—I sit here, no doubt, primarily to do my duty in the trial and the conviction—if there is evidence for a conviction—of those who are guilty. But I sit here, and the jury also sit here, to protect the innocent, especially the innocent who are absent and cannot defend themselves; and it is my imperative duty, after what has been now stated deliberately in writing for you, to say that there is not upon my mind a shadow of suspicion that that old gentleman had anything whatever to do with that murder. If anything had been awanting to show how dangerous it would be to the lives and the liberties of the people in this country if the statements of prisoners who are capable of committing such a crime as you have committed were listened to, as affecting the character, the lives, and the liberties of other individuals—if anything were awanting to show the danger of listening to these statements, of giving them the least credibility, I think the example we have now had of the paper which has been read to us would have been quite sufficient to satisfy us of that danger. I have been counsel for prisoners who stood in the position in which you now do; I have been frequently counsel against prisoners who stood in the same position in which you now do; and I have had the misfortune to sit upon the trial of persons who have stood as you do now; and I am bound to say that I never knew an instance in which the statements made by prisoners after conviction were anything else than in their substance falsehoods; and that the result of all the experience I have had in these matters is to lead me to the conviction that the person who would commit such a crime as you have committed is quite capable of saying anything. And if statements such as we have now heard are to pass for truth with the authorities of this country, there would be an end to the safety of the lives and the characters of every man. Your statement does not convey to my mind the slightest impression—it conveys to my mind the impression of a tissue of as wicked falsehoods as any to which I ever listened; and, in place of tending to rest any suspicion against the man whom you wished to implicate, I think if anything were awanting to satisfy the public mind of that man's innocence, it would be that most incredible statement which you have now made. Be that as it may, I must go upon the evidence and verdict. The evidence has

been led, it has been considered, and the jury have unanimously returned their verdict, finding you guilty as libelled. I have already said that I concur in that verdict, and, indeed, no other verdict would have been consistent with the ends of justice or with the proof in this case. In that state of matters the law leaves me no other alternative than to pronounce the sentence of the Court, which I have now to read—

In respect of the above verdict, Lord Deas decerns and adjudges the Pannel, Jessie M'Intosh or M'Lachlan, to be removed from the bar to the prison of Glasgow, therein to be detained and fed upon bread and water only until the 11th day of October next, and upon that day, between the hours of eight and ten o'clock of the forenoon, to be taken from the said prison to the common place of execution in the burgh of Glasgow, or to such other place as the magistrates of Glasgow shall appoint as a place of execution, and there, by the hands of the common executioner, to be hanged by the neck upon a gibbet until she be dead; and ordains her body to be thereafter buried within the precincts of the said prison; and ordains her whole moveable goods and gear to be escheat and inbrought for Her Majesty's use, which is pronounced for doom. And may God Almighty have mercy on your soul.

The prisoner was then removed; but before leaving the dock she exclaimed in a voice which was scarcely audible, "Mercy! aye, He'll ha'e mercy, for I'm innocent!"

The foreman of the jury then thanked his lordship for the attention and courtesy which he had shown them.

Lord Deas (addressing the Sheriffs of Lanarkshire, Renfrewshire, and Dumbartonshire)—I have to thank you, gentlemen, for your attendance here, and to thank, through you, the officials of your different counties for the attention paid to us and for the manner in which their various cases have been got up. We have had, among other cases, a person accused of a crime of a very serious character, and I think, when you look at the amount of evidence led in that case, you must with me say that it has been attended to and got up in a comparatively short period of time, with great care and skill, and in such a manner as cannot but confirm that confidence which is already placed in you. My Lord Provost and gentlemen, I have also to thank you for the attention paid to our comfort—that attention which we always experience at your hands. I now beg to relieve you from further attendance. Gentlemen of the jury, I also relieve you. The Court and the public are very much indebted to you for the attention you have given to the various cases brought before you, more especially to that case which we have just finished.

The Court then rose.

APPENDICES.

APPENDIX I.

LETTER FROM THE PRISONER'S AGENTS TO THE NEWSPAPER PRESS REGARDING THE PREPARATION OF MRS. M'LACHLAN'S STATEMENT AND ITS EMPLOYMENT IN THE DEFENCE.

Sir,—We think it right, on behalf of Mrs. M'Lachlan, to acquaint the public with the circumstances under which the statement read for her before sentence to-day was made to us. When we first visited her in prison to obtain information for the defence, she gave us to understand that the statements in her declarations contained what she had to say in the matter. At that time she had not been made acquainted with the fact that old Mr. Fleming had been liberated from prison, and, on two subsequent visits, she insisted to us that Mr. Fleming would surely clear her. At a subsequent interview we informed her, in reply to her repeating that expectation, that Mr. Fleming had been discharged from custody. At this she manifested great astonishment, and said she could not believe that to be true. In consequence of our explanation as to Mr. Fleming, she inquired of the matron of the prison, who could not, consistently with prison regulations, give her any information on the subject, and she thereupon sent for her husband to ascertain beyond doubt whether our statement was correct. Having assured herself as to this, she sent her husband with the intimation that she had a communication to make to us. Both Mr. Dixon and Mr. Strachan were out of town, but Mr. Wilson went to see her on Tuesday, the 12th of August last. At this time we were not aware of the evidence which might be brought against her; we had not seen either the medical or chemical reports, and had not spoken to any one of the gentlemen who had prepared them; we had not seen any of the articles in the hands of the authorities which the Crown intended to produce against her; and we had no information as to what these articles were. No indictment had been served, and we were not aware of the names of the witnesses which it was the intention of the Crown to adduce against her, nor had we seen any of the witnesses examined by the Crown at the trial, with the exception of Mrs. Chassels, at Hamilton, her two boys, and Wharton, the railway clerk there. We knew nothing else of the case but the newspaper reports, and no information whatever relative to any part of the case had been communicated to Mrs. M'Lachlan by any one of us. The indictment was not served upon Mrs. M'Lachlan till the 30th of August. On Mr. Wilson seeing her on the 12th of August, she voluntarily gave him, in a general way, the substance of the statement above referred to. Mr. Wilson communicated to Mr. Dixon (Mr. Strachan being still absent from town) on that day what she had told him, and on the following day (13th August) Mr. Dixon went to see her on the subject. The statement was

repeated to him, and notes taken of it at the time. From these notes taken by Mr. Dixon on this occasion, and from further conversations with her had by Mr. Dixon and Mr. Strachan together, in regard to the details, the statement which was read to-day was written out. It was written out as nearly as possible in her own words, and repeatedly gone over with her, not with any view of using that written statement as a declaration, but for counsel's information in consulting as to the course to be taken upon it. The statement we received from her was immediately thereafter submitted by us to counsel, with a view to our being advised as to the use to be made of it in the defence. Subsequently, after the indictment was served, and upon anxious and most deliberate consideration of the case which could be made out against Mrs. M'Lachlan, we were advised not to admit that she was present in Mr. Fleming's house on the night of the murder, by putting in the statement as a special defence. It was judged expedient to contest the point of her presence in the house that night, as the Crown evidence—it appeared to her advisers—would fail to place that point beyond doubt. It was in consequence of this decision (based upon the feeling that, in an issue of life or death, no admission, especially one of such vital importance, should be volunteered by the defence), that the statement was not made use of at the commencement of the trial. This morning, however, before the Court met, Mrs. M'Lachlan sent for her counsel and agents, and expressed to them her desire and determination that the statement should be made in open Court; and she wished, if it could not be read for her, to make the statement with her own lips. The statement was accordingly read for her, and counsel's copy of it, signed by herself, was thereafter lodged in the hands of the Clerk of Court.—We are, &c.,

J. A. Dixon.
John Strachan.
W. M. Wilson.

Glasgow, 20th September, 1862.

APPENDIX II.

Letter from the Lord Provost of Glasgow and the Sheriff of Lanarkshire to the Home Secretary, ordered by the House of Commons to be printed, 4th June, 1863.

City Chambers, Glasgow, 28th Sept., 1862.

Sir,—The excited state of our city at present, in reference to the case of Jessie M'Intosh or M'Lachlan, now under sentence of death, is such that we consider it our duty to bring the same before you for your serious consideration.

On the 4th or 5th July last, a murder was committed in the house of Mr. Fleming, a respectable professional gentleman in the west end

of this city, the victim being a servant named Jessie M'Pherson, the only other person living in the house on the night in question being an old man, father of Mr. Fleming. At first suspicion fell on him, and he was detained several days under the surveillance of the judicial authorities, but, after a few days' detention, was liberated. Jane (Jessie) M'Intosh or M'Lachlan having been in the interim apprehended, was, after several examinations, committed for trial for murder and theft. The trial came on before Lord Deas, on the 17th instant, and continued for four days, the result being a unanimous verdict of the jury of guilty on both charges, upon which she received sentence of death for the 11th October.

Immediately on the verdict being returned, but before sentence was pronounced, she, through her counsel, tendered a written statement, which was read, in which she narrated circumstances, charging the old man Fleming with the murder, and acknowledging being herself present, but in no way instrumental in the perpetration of the horrid deed, except as being in the house at the time on a visit to the murdered woman, and as having afterwards co-operated with the old man in endeavouring to conceal the crime.

The crime, from the moment of its discovery, has taken a powerful hold of the public mind, but since the close of the trial, on the 20th instant, the excitement has become intense amongst a large portion of all classes in this city, and by them it is thought, from the statement itself, and from what they consider corroborative matter which has come to light, there may be some grounds for believing that the woman M'Lachlan is not guilty of the principal crime, but only as an accessory after the fact. The newspapers, not only of this city, but throughout the kingdom, are filled with discussions and letters on the subject, and a memorial addressed to the Home Secretary, praying for a respite, with a view to further investigation, has been already signed by several thousands of our citizens. Meetings also have been held on the subject, and a public meeting of the inhabitants has been called for to-morrow evening in the City Hall, which we have no doubt will be crowded by at least four to five thousand people. This meeting has been convened by most respectable parties, and its object is not only to approve of a petition to you, but also to appoint a deputation to present it. We do not presume to indicate any opinion of our own on this unfortunate matter, but as public opinion is now running so strongly in favour of the woman, grounded on the circumstance that her statement, positively said to have been made up as far back as 13th August, is corroborated by several circumstances brought out in evidence at the trial, we, in our respective positions of chief magistrate of Glasgow and of the county of Lanark, feel it to be our imperative duty to bring the subject thus before you. If a respite be granted to allow time for further investigation, and should the result of that bring additional evidence of the woman's guilt, the ends of justice will not in any way be frustrated, while it may satisfy and allay the public feeling.

In conclusion, we have only to add that in our humble opinion an additional reason for granting a respite, with the view to the investiga-

tions prayed for is afforded by the circumstances that the statement of the prisoner was only brought forward after the charge of the presiding judge had been delivered, and the verdict of the jury returned, so that it could not have entered into the consideration of either in the view which they respectively took of the case. But information has been communicated to us to the effect that if a renewed investigation took place, evidence of an important kind in reference to the statement of the prisoner might be adduced, which has only come to light since the trial.—We are, &c.,

PETER CLOUSTON, Lord Provost.
A. ALISON, Sheriff of Lanarkshire.

P.S.—There is sent herewith a circular received by the Lord Provost, inviting him to the meeting to-morrow evening, but which he declines to attend. If Sir George Grey makes up his mind in any way to-morrow, a telegram addressed to the Lord Provost might be of essential service in restraining the proceedings of this meeting.

P. C.
A. A.

Whitehall, 1st October, 1862.

My Lord,—I am directed by Secretary Sir George Grey to acknowledge the receipt of a communication from yourself and the Sheriff of Lanarkshire, regarding the case of Jessie M'Lachlan.—I am, &c.,

H. WADDINGTON.

The Lord Provost of Glasgow.

APPENDIX III.

PAPERS RELATING TO THE CASE OF JESSIE M'INTOSH OR M'LACHLAN, ORDERED BY THE HOUSE OF COMMONS TO BE PRINTED, 19TH MAY, 1863.

(1) STATEMENTS OF WITNESSES TAKEN BY THE PROCURATOR-FISCAL, BEFORE THE SHERIFF, IN THE CASE OF JESSIE M'INTOSH OR M'LACHLAN, RELATIVE TO THE PREPARATION OF THE PRISONER'S STATEMENT. FURNISHED TO MR. YOUNG.

Glasgow, 1 October 1862.

WILLIAM M'WHIRTER WILSON says—

William M'Whirter Wilson

I am a writer in Glasgow. I exhibit a letter from Mr. John Gemmel, joint procurator-fiscal at Glasgow, to me, dated 30th September 1862, of which the following is a copy:—

Appendix III.

JESSIE M'INTOSH OR M'LACHLAN.

William M'Whirter Wilson

Procurator-fiscal's Office, County Buildings,
Glasgow, 30 September 1862.

Dear Sir,

By desire of the Lord Advocate I am to make inquiry and report for his lordship's information, regarding what has transpired relative to this case, since the verdict of the jury was returned on Saturday, the 20th instant; and in order to this I would like to see you with reference to the statement read to the Court, at the prisoner's request, after the verdict was returned, and to the relative joint letter by you and Messrs. Dixon and Strachan, which appeared in the Glasgow daily papers on the following Monday. I will therefore thank you to meet me to-morrow, at 11 o'clock a.m., in Sir Archibald Alison's chambers, and to bring with you the notes referred to in said letter, and the draft or drafts of the statement read in Court. Sir Archibald will be present at the inquiry.

I am, &c.,

JNO. GEMMEL.

W. M. Wilson, Esq., Writer.

I am now in attendance in consequence of the above letter, and having called upon Mr. Gemmel to exhibit the Commission under which he is making the inquiry referred to, and being informed that he had verbal instructions, from the Lord Advocate, to make it, I hereby, as one of the agents for the convicted prisoner, Jessie M'Intosh or M'Lachlan, while not shrinking from any inquiry, but on the contrary, courting a full investigation, protest against that investigation being conducted or controlled by the same officials, or either of them, viz., Messrs. Hart and Gemmel, by whom the case against Mrs. M'Lachlan was got up, and of whose conduct in the whole matter I have disapproved.

The Sheriff having considered the above protest in respect of the instructions of the Lord Advocate, the tenor of which he repeated to the Sheriff as well as Mr. Gemmel, and which was to the same effect as is stated in Mr. Gemmel's letter to the witness, directing the investigation to be made by the procurators-fiscal, and no other person; and in respect of the present investigation proceeds entirely on the instructions of the Lord Advocate, and no answer has been yet received from the Home Office: Finds that he has no alternative but to conduct the investigation in the mode prescribed by the Lord Advocate, although a different mode may possibly be adopted if the general investigation prayed for by the Lord Provost of Glasgow, and the Sheriff, is agreed to by the Home Secretary.

The Sheriff deems it right to apprise the witness, of what he is doubtless well aware, that by being invited to the present meeting he is not divested of his legal rights as agent for the prisoner, and therefore he need not answer any question in regard to a matter communicated to him confidentially in his character as agent. But, of course, as the object of the inquiry is to put the Lord Advocate in possession of the circumstances attending the last statement of the prisoner read in Court,

William M'Whirter Wilson

and the source from which it was derived, he will probably feel that if what he has to communicate is favourable to the prisoner, the more explicit his statement is made the more likely is it to promote the ends of justice in the case.

The witness having heard the said deliverance, for the reasons stated in the above protest, declines to answer any question in the present inquiry as conducted by Messrs. Hart and Gemmel.

Whereupon the Sheriff earnestly recommended to the witness to reflect on the effect such a declaration, if persevered in, even in the present inquiry, might have on the interests of the prisoner, more especially as the general inquiry prayed for by the Lord Provost and the Sheriff has not yet been authorised by the Secretary of State; and possibly this is the only opportunity which she or her advisers may have of putting the Lord Advocate in possession of the information he desires regarding the sources from which her last statement was derived.

Whereupon the witness having expressed his opinion that the panel's interests could not be prejudiced by his declinature, in respect his co-agents, he believed, were willing at the present diet to give the information which, after serious deliberation he had judged right to refuse. Nevertheless, adding, that from a high respect to his Lordship's recommendation, he would consult his professional brethren, and give a final answer by three o'clock p.m. to-day.

Reappeared the said William M'Whirter Wilson, who declared that in deference to the recommendation of the learned Sheriff, and after consultation with some of his professional brethren, he was now willing to tender himself for examination under the present inquiry, but subject to the protest above recorded, with this addition, that as one of the agents for the prisoner is convinced, and is of opinion that the public will believe that any inquiry conducted by the fiscals of the county will naturally be conducted more or less with the view to justify their former course of action, and the witness respectfully craves his Lordship to use his Lordship's influence to secure an inquiry by impartial parties; and that during any subsequent stage of the present investigation, a professional gentleman should be present on the part of the convict.

And being Examined, declares—

Upon the 11th August last, as is suggested to my recollection by a memorandum in my diary of that date, the prisoner's husband called upon me, and stated that he had been at Mr. Dixon's, who was not in, or was out of town, and that his wife wished to see one of her agents. Upon that day or the following day I called upon Mrs. M'Lachlan in prison. It was late in the afternoon; Mrs. M'Lachlan said that she had not known that old Mr. Fleming had been liberated, and that she could not rest, and wished to tell me all about it. I hinted, indeed stated, that if she meant to make a confession, I preferred not to hear it, and she led me to understand that she was not about to criminate herself, and desired me to note down what she was going to say, as I could not remember it all. I informed her I would hear it, in the first place; she then narrated how she had left

her own house on the Friday night in question, and gone to 17 Sandyford Place; how she had found old Mr. Fleming and the deceased in the kitchen; referred to the "nagging" which went on between them; and how she had gone out for drink to a shop, in North Street, as I think, at which she knocked, but gained no admission. How she had come back by the lane, and observed Mrs. Walker (whom she named) and another female standing by; how she had gone in, or been let in, I can't recollect which, and found Jess bleeding in her bedroom; how she ministered to her friend; how old Mr. Fleming spilt the contents of the basin, blood and water, over her dress; how she took off her boots or shoes, and tended her friend, and how the old man ultimately consummated the deed, and swore the prisoner upon the black Bible never to reveal anything that she had seen that night. These are the outlines of the story, which I can distinctly recollect. The outlines were filled up by details; but these it is impossible for me to detach and distinguish in my own mind at this date from details subsequently discussed or acquired in conversation with Mr. Dixon and Mr. Strachan. The outlines, I would remark, impressed themselves upon my mind as truthful, from their circumstantiality, but my mind was in a state of suspense and perplexity with regard to the story generally. William M'Whirter Wilson

To the best of my recollection, this is the order in which the information was given me; but I beg to add, that the prisoner also told me that the deceased had informed her during the night how the old man had attempted her on the night on which he had come home gay or tipsy. I cannot say whether I was or was not told what part of the bedroom Jessie was lying. It runs in my mind that the prisoner told me that the deceased had been taken from the bedroom into the kitchen, but I can't recollect whether it was stated by her who it was so removed the deceased, or how it was done. This is one of the details to which I have above referred, and which I cannot distinguish as details furnished to me from those which were discussed or acquired afterwards by Mr. Dixon, but I am confirmed in my recollection of the removal of the deceased by the incident of the Bible oath, which, to the best of my recollection, was administered in the kitchen. I can't distinctly recollect now whether the fact of the Bible oath being administered, was administered while dying, or after death, as that part was the subject of after reference, and I cannot distinguish the one from the other. I cannot now recollect whether the prisoner or Mr. Dixon first informed me about her getting the deceased's clothes or Mr. Fleming's plate; and I give the same answer to the question now put to me, as to whether she told me anything about the milkboy, which I am unable now to say whether I heard it from the prisoner or Mr. Dixon.

My general impression is that the story which I heard from Mrs. M'Lachlan was, in its leading outlines, the same as that read in Court. The day on which I saw Mrs. M'Lachlan, or the following day, I saw Mr. Dixon. I called upon him, and he called at my office; and I told him generally what I had heard from the prisoner, and that as she had sent to him first he ought to go and see her. When I saw

William M'Whirter Wilson

Mr. Dixon, to the best of my recollection, I think I observed that some things were very like truth, and some things were very like lies, or words to that effect. Within the two or three days after I saw Mr. Dixon he called upon me, or I met him, and understood that he had been at the prison, and heard and noted Mrs. M'Lachlan's story; and I then, or a day or two afterwards, saw manuscript in his hands, which I think he left for my perusal. They were taken away shortly afterwards, but whether by Dixon or Strachan I cannot remember, but it was by one or other of them. I did not read the notes so left, although my eye may have caught the first sentence. I have some recollection of Mr. Dixon beginning to read them in my room, and of my stopping him, in consequence of some interruption, and their minuteness.

To the best of my recollection, the notes were written on leaves or sheets of draft paper. I cannot tell whether there was more than one sheet of draft paper folio. I recollect that the manuscript was written in a close character. My clerk, Mr. Brand, if I recollect right, remarked when he saw it, that it was "like the Lord's Prayer on a sixpence." The manuscript seemed to be mixed pencil and ink. I had not the manuscript in my own possession after Mr. Dixon or Mr. Strachan took it away; but I saw it on more than one occasion in theirs. I never read, or heard read, the notes from beginning to end, so far as I recollect, but their contents or alleged contents were frequently referred to by Mr. Dixon and Mr. Strachan. I did not read the notes, inasmuch as I was busy at the time with other work; and Mr. Dixon and Mr. Strachan seemed inclined to prosecute inquiries at once, while my advice and policy was to refrain from further inquiry than had already been made until the fiscal had completed his inquiry. Having only glanced at the manuscript as it lay on my desk, I cannot say whether it was in the first or third person, but I would suppose, from the mode in which the narrative was given so far to me by the prisoner, that Dixon would find it more easy and simple to take the prisoner's story in her own words. Messrs. Dixon and Strachan having ultimately undertaken the more laborious part of the case, and my more immediate attention having been engaged in other business, I do not recollect when I first saw the written statement from which Mr. Clark read after the verdict was given.

I may have heard of the milkboy in connection with the case, before I heard of Mrs. M'Lachlan's statement in prison; but I am certain, speaking to the best of my recollection, that I did not then know the hour at which the milkboy was at the door, whether the chain was off or on, or whether milk was taken in or not. If I knew that the milkboy was at the door it was not from inquiry after him, but by incidental report, and I think Captain M'Call first made any remark about it.

I wish to add, of my own accord, that I had not an opportunity of revising the letter to which my name is adhibited, and which is referred to in the outset of this precognition. Upon seeing it in print, I pointed out to Messrs. Dixon and Strachan, by whom it had been drawn, what appeared to be an omission, viz., that, previous to the 12th of August,

Mr. Dixon and I had seen the witness Mrs. Black, and that the witnesses Gibson and Hamilton had been, of course, precognosced at the same time as the Chasselses; but as this inaccuracy did not appear to affect the material question at issue, it was not considered necessary to correct it until the inquiry should follow, which we believe to be indispensable. I was at Hamilton with Messrs. Dixon and Strachan—as I see from my diary—upon the 26th July. During the following week or second week afterwards, Mrs. Black was invited to the police office for the purpose of ascertaining whether Mr. Dunlop could recognise her as the woman whom he had seen on the Saturday morning in question; for Mr. Strachan and I—from the description we had received of her, and the description of the woman to whom the Gibsons referred—suspected that they, the Gibsons, had Black in their eye. William M'Whirter Wilson

A number of questions as to what she had told the fiscal were put to her by Mr. Dixon and myself, and my object was to divert her suspicion; not formally precognosce her. Besides these, the newspaper reports, and general talk among the police whom I incidentally met, I had no specific information of the case on the 12th August. I cannot recollect giving Mrs. M'Lachlan any information directly regarding the case, but facts may have been suggested by questions. I did not know, before the 11th or 12th August, that the body of the deceased had been washed or bathed. That information was first communicated to me by Mr. Dixon, after he addressed himself to the medical evidence in the light of the prisoner's statement, and it was from him that I first learned that the milkboy had been "found out." I did not see or examine Mr. Fleming's family till after the indictment was served, viz., on the 5th and 6th of September, if I recollect right, and the indictment was served before I fully precognosced Captain M'Call. Had I revised the letter before referred to, instead of the phrase "she voluntarily gave him, in a general way," I would have substituted "she voluntarily gave him generally the substance, &c." And this I declare to be truth.

At Glasgow the 1st day of October 1862.

In presence of Sir Archibald Alison, Baronet, Advocate, Sheriff of Lanarkshire.

Appeared Joseph Anthony Dixon, writer in Glasgow, who says— Joseph A. Dixon

I appear here in terms of the request contained in the letter of yesterday's date, addressed to me by Mr. Gemmel, joint procurator-fiscal; declares, I have not the notes taken from Mrs. M'Lachlan on the 13th of August last, referred to in the joint letter by John Strachan, W. M. Wilson, and myself, which appeared in the *Glasgow Herald* of September 22nd, 1862. These notes were taken by me in pencil, upon a sheet of scroll paper, on the 13th August last, and either on that day or within a few days afterwards, I retraced the pencil marks in ink. I rather think I did not trace the whole with ink, but I did so with the greater portion; I did not add anything. Before I

Joseph A. Dixon traced these notes in ink, I showed these pencil notes to my co-agents, Mr. Wilson and Mr. Strachan. I rather think I left the pencil notes with Mr. Wilson on the day that they were taken, and Mr. Strachan afterwards got them from him. I explain, that I went to prison and took said notes in consequence of Mr. Wilson having called upon me on the 12th August, and stated that he had seen Mrs. M'Lachlan in prison, and that she had made a statement to him, the material parts of which he repeated to me, and which were the same as were contained in the written statement read in Court. I can mention from recollection the leading points that he mentioned to me at that time as having been communicated by the prisoner, and which struck me as so remarkable that they fixed themselves in my recollection. These were, that she went to the house in Sandyford Place; that she found the old man in the kitchen along with Jessie; that there was some "nagging" going on between them; that she had gone out for whisky; that she saw Mrs. Walker, whom she knew when a servant in Fleming's; that on her return she found Jessie lying in the bedroom in a corner; that she washed the wounds; that there was a splash of water from the old man spilling a basin over her; that the deceased was put to bed, and subsequently taken to the kitchen with the bed clothes; that there was an oath administered on the big black Bible, and that the old man had murdered Jessie M'Pherson in the kitchen. Farther, that she had remained in the house till near nine o'clock in the morning, before which time Jessie was quite dead. The impression left on my mind from what Mr. Wilson stated he had heard from the prisoner, was, that the prisoner had got the articles that were pledged as hush-money.

Another circumstance, which I particularly recollect being mentioned by Mr. Wilson was, that the old man had made a splash with a basin of soap and water, and that particularly attracted my attention from thinking it might account for the soda which I understood was at the time being searched for on the prisoner's dress.

The first notes that were taken on the 13th August, as above mentioned, contained the substance, and with the following exceptions, the details of all that is contained in the written statement read in Court after the trial. The exceptions referred to were, (1) That the conversations with the deceased were not then so fully given as they appear in said statement; although she gave the reason assigned in the statement as the cause of the quarrels between the deceased and old Fleming; (2) the particular locality in North Street of the shop to which she went to get whisky; (3) the precise time when the old man cleaned himself and went out for coals; (4) the circumstance of old Fleming going up stairs to open the door to the milkboy without his coat, and coming down with his coat on. I add, also, in relation to the passage in the declaration, which mentions what was said about going for a doctor, that the prisoner told Mr. M'Lean (one of her counsel) that she had said to the old man that "she would go for a doctor, whether he would or not."

I remember also distinctly, in reference to that part of the declaration where the change of the position by the deceased is spoken of,

that I could not distinctly understand at first how it had occurred, and having explained the difficulty to her, she explained it by the help of a little diagram drawn in pencil, to the effect that the woman, when she was lying near the fire, shifted herself back, and turned herself round without rising, and continued and was left in that position, with her head now nearly opposite where it formerly had been, and her feet towards the fire. She also explained to us subsequently, but before the trial, all that she had done from the Friday night down to the date of her apprehension, and I took notes of this information, but it was not thought necessary to add these to the statement, as we expected it would all be proved by witnesses. The whole of these exceptions and additions to the declaration were made before we went in the second time to Mr. Clark in Edinburgh, which was of course before the trial; but I will be able to get the precise date and send it to the Sheriff. Joseph A. Dixon

The original pencil notes traced over with the ink as above mentioned, were taken into Edinburgh to Mr. Clark by myself and Mr. Strachan, on the first occasion when we saw Mr. Clark, and Mr. Strachan read the statement to Mr. Clark from the pencil notes; and they had been seen before that by Mr. Gordon Smith, who was consulted on this matter, and carefully read over to him. We had repeated consultations with Mr. Clark as to whether we should bring forward the information either in the form of a fourth declaration before the Sheriff, or of an opening speech, or a full written defence, bringing it all out. The prisoner was most urgent on all these occasions, that the statement should be brought forward some way or other under the consideration of the jury, but on mature consideration it was deemed too hazardous alone to adopt, as it admitted the presence of the prisoner in the house during the night, and her seeing the great part of the crime which was committed.

It was understood by her and her agents, however, that as much as was practicable of it should be brought forward either in cross-examination or in Mr. Clark's speech to the jury, when it might be stated as a probable hypothesis, and on the strength of that understanding, Mrs. Walker and Miss Dykes, who are said to have seen the prisoner on the night in question near the house in Sandyford Place, coming from the whisky shop, were cited to be in attendance at the trial.

At the first consultation with Mr. Clark after the pencil notes had been taken of her declaration, Mr. Strachan and I were directed by Mr. Clark to endeavour to get some evidence to corroborate her statement in some parts, and for that purpose the notes were carried about in the pockets of Mr. Strachan and myself, I think for nearly a fortnight; and in the interval between the first and second consultation with Mr. Clark, the pencil notes were extended in the written form by myself in the copy which was afterwards read in Court, and which was sent in to Mr. Clark along with his other papers relating to the case; and within two or three days after this copy was made by me, and before the trial, the original pencil notes were destroyed by me. I would certainly have preserved them if I had had any idea that the state-

Joseph A. Dixon

ment was to be used as has now turned out, but I had no particular reason for destroying them, further than that they were useless after the written declaration was extended. We had a consultation with Mr. Clark as to whether the original pencil declaration could be put in evidence, or the prisoner's agents put in the box to speak regarding it, but he was of opinion it was not competent to do either the one or the other, and therefore it was not attempted, and the notes were destroyed. I think this part was discussed at the first consultation with Mr. Clark. Till the trial had begun and gone some length, I had no idea that the statement would be made use of judicially on the trial or otherwise, but thought it would be used as a sort of memorial to Mr. Clark for his speech to the jury and conducting the evidence, but up to the last moment the prisoner was urgent it should be made use of some way or other. The copy of the declaration which was read in Court was a faithful copy of what was contained in the pencil notes, and got from the prisoner on other occasions; there was nothing in it that I did not get from the prisoner previous to the second consultation with Mr. Clark, which was, I think, a week before the trial began.

The concluding four or five lines of the declaration read in Court, relating to the prisoner not being pressed for money, and having paid her rent on the Saturday before she got the money for the plate, and having had no quarrel with Jessie M'Pherson, did not appear in the newspapers, because they were not in the copy delivered to the reporters, but merely on Mr. Clark's copy, they having been added thereto by me when in Edinburgh, and with the view of using the statement as the draft of a special defence; but on further consultation, Mr. Clark was of opinion that these statements could not be made the subject of a special defence, but must be left to come out in evidence. I desired the newspaper reporters to supply the defect from their shorthand notes of the lines as they were read at the trial, and although the statement in these four lines was substantially what the prisoner had stated to us, yet it was not a part of her declaration as actually given to us, but it was intended to have been made part of the special defence, which was to have contained the whole statement, which Mr. Clark declined to sanction.

The copy of the declaration from the pencil notes was made by me some days before the second consultation, but I cannot recollect the number, and for the purpose of the consultation. I destroyed the notes before going into Edinburgh to attend the consultation. There was only another copy of the declaration made, and this was copied from that made by me. It was Mr. Strachan who got this copy made. At the time I extended the notes, all the Crown witnesses that I precognosced had emitted their declarations, which we had, but we did not precognosce them all; but after the prisoner's statement we ceased precognoscing the Crown witnesses, as the prisoner's statement, with the depositions of some of the witnesses, had put us in possession of what the most of them could say, and the precognitions taken, coupled with the statements of the prisoner, had put us in possession of the whole facts of the case, which emerged at the trial, with the excep-

tion of the medical witnesses. I precognosced the milkboy after taking the pencil notes of the prisoner's declaration, and before the first consultation with Mr. Clark, as I think, and it was what was stated by the prisoner regarding the milkboy that led to my searching him out. I think I had heard from the newspapers, or from some verbal conversation, that there was a milkboy who had seen the old man early in the morning, before I was agent in the case, but it was the statement regarding it in the prisoner's statement engrossed in the notes which led me to inquire particularly regarding it. Joseph A. Dixon

Before the pencil notes were taken by me from the prisoner, I had seen and examined Mrs. Campbell, Aaron Wharton, the Chassels family; I had spoken to but not precognosced Mr. Devon, the superintendent of county police at Hamilton. I had seen, but not precognosced, Mr. M'Call, superintendent of police, Glasgow. I understand that my co-agents had seen and examined Mr. and Mrs. Gibson before the notes were taken. I also examined Sarah Adams before this. I am sure that I did not precognosce Mary Black or Adams until I was in possession of the prisoner's statements; but I explain that I had seen her in the police office with a view to Mr. Dunlop identifying her, if possible, and Mr. Wilson and I had asked her one or two questions, and had examined the size of her foot. When on a reference by Mr. Wilson to some evidence she had given in M'Geachie's case, she got up in a passion and refused to answer any further questions.

I do not think there were any other witnesses precognosced by me previous to the prisoner's statements, nor had I seen the precognitions of any other witnesses examined by my co-agents. The only persons, to my knowledge, who ever saw the pencil notes were my co-agents, Mr. Clark, Mr. Gordon Smith, and Mr. Brand, clerk to Mr. Wilson. The notes were all contained on one sheet of ordinary scroll paper. After I had taken the notes, and Mr. Clark had directed us to investigate, I made inquiries at the spirit shop of Mr. Littlejohn, in North Street, as to whether, on the Friday night in question, they had heard a rapping at the shop door shortly after eleven o'clock. I am sure I did not make inquiries at Littlejohn's with the view of ascertaining that a person answering the prisoner's description had actually purchased whisky in his shop on said Friday night.

I have destroyed the original notes of the witnesses' statements taken by me. If I have any of them still, I am ready to produce them. I kept no notes of the several dates on which I precognosced the various witnesses. And the witness begs to add of his own accord, that during the course of precognition and investigations before the trial by the advice of Mr. Wilson, who had had experience of criminal matters in the City Procurator-fiscal's Office, they made it a point not to communicate to the prisoner what they had gathered from the Crown witnesses in the list annexed to the indictment, farther than occasionally asking her some explanations in regard to some points in which they had a difficulty and as to the truth of which they wished to have the prisoner's own statement. And in particular, I declare positively that I gave no information to the prisoner in regard to the facts mentioned in her last statement, nor did I give

Joseph A. Dixon

her any information to enable her to make that statement; nor have I any reason to suppose that either of my co-agents did so any more than I. As to Mr. Wilson, I rather think he did not see the prisoner after the 12th August, when he almost ceased to act as her agent. And from the mode in which the prisoner made her communications to me, I had every reason to think that it was a spontaneous narrative on her part, and in no respect made up from information derived from others. This was my impression at the moment, from the mode in which the statement was given; and when it was communicated I did not know whether to believe it or not, as my previous impression had been adverse to the prisoner. Before Mrs. M'Lachlan had given me her final statement, she had more than once assured me that the statements made by her, in her declarations before the Sheriff, were all she had to say, and that she had not been in Fleming's house on the Friday night, and that the bloody clothes were not hers. She furnished me with a written statement of what she had said before the Sheriff, and on my telling her that I could not believe it, she said it was true, and that no doubt old Fleming would clear her. I then said to her—what was a popular rumour—that old Fleming had said he did not know her, and that he had been liberated. Upon this she expressed great surprise and said, "Out, and left me here, I canna believe it." I told her it was quite true that he had been liberated, and upon that she said she did not know what to do. I think this took place on Thursday the 7th August last, and she had said the same thing at a previous meeting.

The extended copy of the statement was never, to my knowledge, read over to the prisoner, and from there not being time to do so when the trial was going on. It was signed by her upon Friday the 19th September, at the Court-house, before the commencement of that day's proceedings.

At Glasgow, the 1st day of October 1862, in presence of Sir Archibald Alison, Baronet, Advocate, Sheriff of Lanarkshire.

J. Strachan Compeared, JOHN STRACHAN, writer in Glasgow, who, being examined, declares—

I was not present when Mr. Dixon took from the prisoner the notes of her statement upon the 13th August last; but on the morning of the following day Mr. Dixon called on me, and stated she had made an extraordinary statement, which he had taken down in writing, and had left the written statement with Mr. Wilson. He gave me verbally a narrative of the statement, and the same day I called at Mr. Wilson's office, and got the notes from Mr. Wilson. I got the notes, and took them home with me, and read them very carefully. This was on 14th August.

I read and considered the statement the more carefully and anxiously as there was a difference of opinion between Mr. Dixon and myself as to the immediate use which should be made of the statement, he

recommending the render of a fourth declaration to the Sheriff and I deeming such a course was not desirable without further investigation as to the truth of the statement. On the following day, being 15th, I had a long consultation with Mr. Dixon in reference to that point, but, as we still continued to differ, I asked Mr. Gordon Smith, whom I happened to meet, and to whom I mentioned the subject, and explained the whole matter, to accompany me to Mr. Dixon's lodgings that evening and have the question considered. J. Strachan

The three of us accordingly met in Mr. Dixon's lodgings, when the notes were carefully read over in our hearing by Dixon, and we had a long discussion (from 10 p.m. till 4 a.m.), as to what immediate use should be made of the statement. The notes were in the form of a narrative; the prisoner speaking in the first person. They had evidently been taken in pencil, and the pencil writing traced over with ink. I cannot say whether the notes were written in a book or on loose paper. I have no distinct recollection of the form of paper on which the notes were written. They were not signed by the prisoner. There was no copy made of them until about the time the prisoner's counsel, Mr. Clark, was consulted. The first time we saw Mr. Clark was about the latter end of August, when we went to consult Mr. Clark as to whether the prisoner should emit a fourth declaration. I cannot remember whether the notes were copied out at this time, but my impression is they were not. At that consultation I had the notes in my pocket; I did not read them or any other paper to Mr. Clark, but I stated verbally to him the substance of the notes, and also of the case against the prisoner, so far as we had then ascertained it. Before we went in to Mr. Clark, Mr. Dixon and I had had two or three meetings with the prisoner, at which we received from her some explanations as to matters of detail regarding her own and old Mr. Fleming's actings on the Friday night in question, and these were interlined on the original notes taken by Mr. Dixon. I cannot tell whether I made the interlineations, or whether they were made by Mr. Dixon. I rather think the interlineations were three in number; the first of them being as to the particular public-house to which she had gone to get spirits; the second as to what old Fleming had been doing between the time of the first blow being struck and the last blows; and the third had reference to some part of the conversation alleged to have taken place between her and the deceased, after the latter had been put to bed. My decided impression is, that they (the notes) were not copied at the date of the first consultation with Mr. Clark, but I think they were copied shortly thereafter by Mr. Dixon. I compared the copy so made with the original in Mr. Dixon's lodgings, and with him. I cannot tell whether I had the original or the copy during the comparison. After this I left the original notes with Mr. Dixon. I do not know what became of the original notes. I recollect that I asked Mr. Dixon for the loan of the original notes to use at the trial, and he and I then made a search for them, but they could not be found. I never saw the notes after the comparison of the copy with them. There was only the one copy made from these notes, and that was the

J. Strachan copy from which Mr. Clark read after the verdict of the jury had been returned. I explain, however, that there was a clause at the end of that copy which was not in it when I compared it, and which I had never seen there. The substance of this clause was, however, contained in the original notes which brought down the narrative of all the prisoner's actings connected with the case. The account which she gave of her actings after the Saturday morning, both in pawning the plate, sending the articles to Hamilton and Ayr, and her own visit to Hamilton, and disposing near there of the bloody clothes, coincided in every particular with the evidence given at the trial on these parts, with the exception of her alleged interview with Mrs. Gibson, which she says never took place.

From the prisoner's information and precognition of the witness, I prepared a memorial, which is herewith produced, the whole narrative of which was written by myself; the comparisons of evidence were written by Mr. Dixon, and which is founded on the statements in the prisoner's last declaration.

I had seen Mrs. M'Lachlan only once, and that in presence of Mr. Wilson and Mr. Dixon, before the notes of the prisoner's statement were taken, and I had not previous to that time seen a single witness in the Cown list, except Mrs. Gibson at Hamilton, whom I did not examine; nor had I seen the precognition of any witness taken by my co-agents. I had not heard before that of the story of the milk-boy, nor had I seen it noticed in the newspapers. At the interview at which I was present before the notes were taken, the name of old Fleming was not mentioned by us. She then said that she had told all she had to say to the Sheriff. I now remember that she certainly said at this meeting that old Fleming would surely clear her. None of us made any reply to this statement. She then made no explanation of how old Fleming could clear her, and the first information which I had regarding him was from the notes already mentioned. The notes were not shown by me to any other person than Gordon Smith, but the whole import of them was explained to Mr. Mayer, of the Secular School, chiefly in order to get his opinion in regard to some scientific questions involved in the case, and also to Mr. Galbraith, a procurator of Court standing high in his profession, in order to get his opinion on the propriety of making that statement the subject of a fourth declaration to the Sheriff, on which point Mr. Dixon and I were at variance. But Mr. Galbraith coincided with me that it would be too hazardous to make any such statement public without further information as to its truth; and accordingly it was further referred to Mr. Clark, who coincided with me in opinion that the statement should not be hazarded without further evidence of its truth. At the first consultation with Mr. Clark, he recommended an immediate investigation, with the view to ascertain whether the statement could be corroborated by external evidence. We were unsuccessful, however, in getting corroboration of the principal facts, as they were stated to have occurred all in the house, when nobody else was present on that occasion, except old Fleming and the prisoner. But we found her statement corroborated by external evidence on many subordinate points, and I am prepared

to furnish the Procurator-fiscal with the names of the witnesses who can furnish such corroboration, and with a precognition of what they can say on the subject. I got a clerk of Mr. Galbraith to make a copy of the prisoner's statement, as extended by Mr. Dixon for the use of her counsel, Mr. Maclean; and that is the only other written copy in existence, and the one which was furnished to the press. J. Strachan

Glasgow, 1 October 1862.

DAVID BRAND says— D. Brand

I am a student of law, and reside at 9 Kew Terrace, in or near Glasgow; aged 24 years.

I have been engaged in Mr. Wilson's office, in St. Vincent Street, since the 11th August last. On the 14th, or 15th, or 16th August, when I was in the office with Mr. Wilson, Mr. Dixon, writer, came in, and pulled a paper out of his pocket, and looked at it, and Mr. Wilson looked at the paper in Mr. Dixon's hands, and asked him if that was the statement. Mr. Dixon answered that it was, and then sat down and read two or three sentences, when Mr. Wilson stopped him, and said that he had not time to hear any more of it at that time. I think Mr. Dixon left the statement in the hands of Mr. Wilson, but I am not certain of this. I had not it in my hand. I never saw it after the occasion referred to. No other person was in the room at the time. I understood that the paper referred to was the statement of the prisoner M'Lachlan; in fact, I am certain of this, as Mr. Wilson had told me previously that he expected to receive such a statement from Mr. Dixon, who was to call at the prison and see M'Lachlan.

The paper referred to appeared to be written on one sheet of blue paper, and it seemed to be very closely written, and with ink; but my impression was that it had been first written more or less with pencil, and afterwards gone over with ink. The writing appeared to me to be that of Mr. Dixon. The part of the statement that I heard read by Mr. Dixon was exactly the same as what I afterwards saw reported in the newspapers on the Saturday when the trial was finished.

GORDON SMITH, Writer in Glasgow, says— G. Smith

Either on the 15th day of August last, or two or three days afterwards, I met Mr. Strachan in the Dunlop Street Theatre. We left about 10 p.m., and we walked home by way of Buchanan Street, Sauchiehall Street. We talked about the case of Mrs. M'Lachlan. Strachan intended calling on Dixon that night, and I went with him to Dixon's lodgings, but we did not find Dixon there. We walked about the street for nearly two hours, and during that time he told me confidentially of a statement that had been made by the prisoner a few days before that. He explained to me generally the nature of the statement, and a number of the particulars which it contained, and further

G. Smith that he and his co-agents differed as to what use should be made of it. After walking about for a couple of hours, we returned to Dixon's lodgings, and found him in. Shortly afterwards, Dixon produced a written statement, which he said had been taken from the prisoner, and read it continuously, subject, however, to comments made by us in the course of the reading. I had not the notes in my hand, but I think they were partly written in pencil and partly in ink. At any rate, I am sure they were in draft form, as at some places Mr. Dixon had difficulty in making them out. They were very closely written on foolscap paper, but whether on one or more sheets I cannot remember. It took him a very long time to read them. I never saw the said notes after that night, nor any copy of them. I was present in Court, and heard the prisoner's counsel read a statement for her after the verdict of the jury was returned. That statement seemed to me to correspond in every respect with the statement which Mr. Dixon read in his lodgings on the night above referred to. No part of it seemed new to me. Even the details were quite familiar to me. I remember distinctly all the facts therein set forth, but I cannot say that the phraseology of the statement, as read in Court, is the same as was read in Mr. Dixon's house. I remember, however, some of the precise expressions appearing in the statement, in particular, "them brutes of cats," "haud your ill tongue," the oath on the Bible that she would never tell to man, woman, or child what she had seen. I remember distinctly the description of how the woman was lying after the prisoner returned with the whisky—with her arm below her. Also that old Fleming would make everything right to Jess; this, as well as other things. I cannot recollect whether there was anything in the notes read in Mr. Dixon's house about the silverplate of Mr. Fleming, and clothing of the deceased, and my reason for not being sure of this is, that I had previously seen in the newspapers the account given by the prisoner at her apprehension, regarding these articles, and that has produced a little confusion in my mind on the subject.

Regarding the story of the milkboy, referred to in the prisoner's statement, I wish to state that I am satisfied that on the night that the notes were read in Mr. Dixon's house, neither he nor Mr. Strachan knew what the milkboy could say, and indeed had not seen him; and my reason for saying this is, that a fortnight afterwards I met Strachan, and asked him if there was anything new about the case, and he then told me they had found the milkboy, and his evidence would be of importance, because Fleming, in his declaration, had said that the back door was locked, and the key inside, and the milkboy would say that the front door was either locked or chained, so that either Fleming must have done the deed, or let the person out who did it.

When the notes were read in Dixon's house, neither he nor Strachan could say whether they could or could not be corroborated in any particulars; and I therefore advised them not to make any use of them by adopting that statement as their line of defence. A few days, however, before the trial, they informed me that the statement could be corroborated in several particulars, and then I advised them to use it.

Appendix III.

JAMES GALBRAITH, writer in Glasgow, says— J. Galbraith

From the date of Mrs. M'Lachlan's apprehension, I was from time to time in communication with her agents. On the 22nd August last I was detained in Glasgow over night, instead of going to Rothesay, where my family were then resident, and in the evening I met Strachan and Dixon, and we talked about the evidence. I that night got from them the material facts contained in the statement of Mrs. M'Lachlan, as read after her trial. I recollect distinctly of being told, that she blamed old Fleming for having inflicted all the blows upon Jessie M'Pherson; farther about the oath on a Bible; also, that she had been out of Fleming's house for whisky before the first blow was inflicted; also what is stated about the bathing of deceased's body; the spilling, by old Fleming, of the basin of water on her clothes. I have a vague recollection of the milkboy being named, but I am rather inclined to think that on that point my recollection may have been influenced by what has been published since. I think I was then told of the deceased being taken from the bedroom to the kitchen before she was dead. I recollect distinctly of being informed that the prisoner had said, that deceased told her, that old Fleming had been tipsy on a certain night, and had come into her bed, and that the deceased held this circumstance as a threat over the old man's head, and threatened to tell his son. I never saw the notes of the prisoner's statement, nor any copy of them; but the general tenor of the statement made to me by Dixon and Strachan coincided with the statement as read after the verdict of the jury was returned.

I may mention that the agents from time to time consulted with me regarding the conduct of the defence.

AGNES WARDROPE or CHRISTIE, aged 26, says— A. Christie

I reside at 65 Taylor Street, Glasgow; I was confined in the prison of Glasgow for ten weeks prior to 9th September last, on an alleged charge of robbery or theft, which was departed from as against me.

I was committed to the prison of Glasgow on a Tuesday (1st July), and the convict, Jessie M'Intosh or M'Lachlan, was sent there following Monday week. She was put into the same cell with me and Catherine Fairlie or Smith on said Monday (14 July); and I was with her in that cell for eight weeks thereafter, her companion by day and night. She was placed in the cell between six and seven o'clock on said Monday evening. She looked very sad and depressed. According to a custom among prisoners, I asked her what she was imprisoned for, when she answered or rather remarked, that we must have heard of the case of murder in Sandyford, of the old man killing his servant, and that she was in for the same matter. I had heard of that occurrence before then, and also of the rumours about old Fleming, but not of his commitment.

When she made that statement, I said, "Dear me, are you in for that?" to which she replied, "Oh, no, Mr. Fleming is in for it"; adding, that she had been two years a servant in Fleming's house; that old Fleming had come to her house between seven and eight

A. Christie

o'clock on the Friday night of or before the murder, with a lot of silverplate, which he desired her to pawn, not in the name of Fleming, lest his son should know, but in the name of a niece of his; and as an address, the house Flemings had occupied before they went to Sandyford Place. She said Fleming had told her to get an advance of £6 10s. on the plate and beg the broker to get good care taken of it, as it would not be long. Farther, that she had on Saturday pledged the plate in Lundies' pawn for £6 10s., that Fleming came to her house about a quarter-past three o'clock on Saturday; and she had then given him the whole money she got for the plate, without his giving any part of the money to her as a recompense for her trouble. And, continued she, "Old Fleming is now denying that he gave me the plate, that he knows me at all"; and that in consequence, she had been apprehended, and put in prison. She declared herself innocent of the murder, nor did she then accuse old Fleming of it, or free him. She was not very communicative.

Eight days after she came to prison, on a Monday night, she received her copy committal, and on the Tuesday or Wednesday afterwards (15 and 16 July), an agent whose name is Mr. Wilson came and visited her. They conferred in a private room out of my hearing for about two hours together. I asked the nature of her interview with the agent, to which she answered that she had told him all about getting the silverplate from old Fleming, that he had asked whether any one had seen Fleming give it her; and that she had told him no one had seen him, although her neighbour was in the other end of the house at the time, putting her child to bed, and that she might have heard his voice.

Another agent, a Mr. Dixon, visited her, I think, next day after Mr. Wilson called, and after him came a third agent, a Mr. Strachan. The agents thereafter continued to visit her frequently, sometimes two of them together. All their meetings took place out of my sight and hearing, and I cannot tell what passed thereat.

By and by, after consultation with her agents, she became less disposed to talk on the subject of the murder; and when the woman Fairlie or I happened to refer to it, making any inquiry at her, she used to tell us that by the advice of her agents she was to make no statements to us on the matter; and further, that her agents had informed her that but for the declarations she made at the County Buildings before the Sheriff, she would not have been still in prison; and she expressed a wish that the County Buildings might be taken on fire, and all the declarations and books burned. By direction of the agents, as she said, she was for several days engaged writing down on note paper a long statement, which she said was a copy of what she had stated as her declarations, so far as she remembered, to be given to her agents; and though I did not see it, I believe it was handed to the agents.

About three weeks after her commitment I heard, in taking my exercise on the prison green, that old Fleming had been liberated, and when I returned to my cell I told her what I had heard; she looked very surprised, could apparently scarce believe me, and satisfied

herself on the point by inquiry at the warder, Mrs. Broadley. Hearing beyond doubt that old Fleming was liberated she cried bitterly, proclaimed him an old murderer, said he had done the deed, and that the guilty had got out and the innocent was kept in; but she stated if she had had money she would have got out as well as him. Fleming's liberation affected her spirits considerably. She was exceedingly sad for two days after hearing of it. A. Christie

She expressed no reason for being sorry at giving the declarations in the County Buildings, and did not insinuate that they were false. She wrote a great deal after grieving over the declarations, especially before her agents were to call, in order that they might get what she had written; but I had no means of knowing what she wrote, for I cannot read, and she did not tell us what she was writing, except that she said she was trying to mind what she had said in the County Buildings; her agents never spoke to me.

The last visit she received from them before my liberation was the Friday before that event (5 September). I cannot tell what took place at that meeting, any more than I can do as to the rest.

I remember her once saying the agents had told her that when old Fleming was being examined against her in Court, she was to rise up and confront him, saying, "Mr. Fleming, was it me that did the deed?" when there was no doubt he would shudder at it, and that it would be seen he had done it; further, that she was to keep herself very calm. She used to pencil something on a slate about a fortnight before my liberation, and she explained it was a chapter in the Bible she was writing, and learning on her memory, and that she would repeat it at the Court at her trial.

She stated she was very sorry for the murdered woman, Jessie M'Pherson; that she was a nice person, with whom she was on good, friendly terms, and that old Fleming had offered to marry her, and put her in a house of three rooms and a kitchen.

She also stated, as the motive for Fleming killing M'Pherson, that Jessie had said she was going to Australia, and that Fleming was spited for her wishing to go there and refusing to marry him.

She mentioned, not long after her commitment, that the milk lad had called at Fleming's house on the Saturday morning; that old Fleming had answered the door and taken in the milk; that the lad from the country had called, inquiring for Jessie, both on Saturday and Sunday, and old Fleming had told him she was not in; also that shirts, a vest, and a pair of trousers of old Fleming had been got in his drawers, all stained with blood. I understood her to mean she had got this information in the newspapers before she was brought to prison.

I heard in prison, on the green, one day I was walking, that a bundle of bloody clothes, supposed to refer to the Sandyford murder, had been found at Hamilton, and on returning to the cell I asked at Mrs. M'Lachlan if she had any acquaintances in Hamilton; she replied she had acquaintances there, and inquired why I asked the question; I informed her because a bundle of clothes had been found there, on which she looked amazed and confused; but I did not put it

A. Christie to her whether she had placed the bundle at Hamilton, and the conversation immediately turned to another subject. Before I left prison, she said she was sure she would be acquitted at the trial; that the agents had told her so; and invited me to call at her house afterwards and have tea with her.

C. Fairley CATHERINE FAIRLEY, aged 30, says—

I reside at 65 Taylor Street, Glasgow. I was committed to Glasgow prison on an alleged charge of theft, on 1st July, and was liberated 22nd August. I was an occupant of the same cell with convict Jessie M'Lachlan for five weeks prior to my liberation.

She blamed old Fleming for giving her the silverplate to pledge on the Friday evening; denied the murder of Jessie M'Pherson, and said all she had done was pledging the silverplate, and that was merely to oblige old Fleming; but now she saw he had laid a trap for her. She denied that she had been at Fleming's house on the night of the murder.

After she had seen her agents she said she wished she had made no declaration at the County Buildings, it would have been better for her she had not, and that she would like the County Buildings would take fire and burn them. She said she did not mind all she had said in her declarations.

One of her agents was with her the next day after she received her commitment, and one or more of them called very frequently afterwards, but I had no opportunity of hearing what took place at their meetings. She was less communicative after being visited by the agents, who she said bade her not speak with us on the subject of her case. When she heard that old Fleming was liberated she called him an old rascal, and remarked that she should be let away too, for he had laid the trap for her. When news of the bloody clothes at Hamilton being found came to her ears, she, in answer to Agnes Wardrope, stated she had no friends in Hamilton, but she had acquaintances, with whom, however, she kept no correspondence.

She used to write a good deal in her cell, for her agents, I understood, but I cannot tell what she wrote, for I cannot read, and she did not tell us what she was writing.

I never saw her agents handing her any papers; we had no means of seeing that, as their interviews took place apart from me. I never heard her saying she would make or read a statement at the trial; and, down to the time I left prison, she never hinted to me that she had been in Fleming's house on the night of the murder.

Appendix III.

(2) Notes of the Statements of Witnesses Examined before George Young, Esq., Advocate, in Regard to the Case of Mrs. M'Lachlan.

(The portions of the statements of these witnesses, which had previously been taken before the Sheriff, are indicated in the text.)

(Before Mr. Young.)

Glasgow, 17 October 1862.

John Fleming, Son of old Mr. Fleming, and a Witness at the Trial. J. Fleming

It was from eight to ten on the Monday evening that I missed the plate. I was the first to miss it; I was looking through the sideboard drawers to see if anything were amissing. There were two detectives in the house at the time, and I think one of them was present. Besides the articles taken away, and afterwards recovered in the pawnbroker's, there were in the open wing of the sideboard—

1st. A Silver Teapot and Stand.
2nd. A Silver Cream Jug.

The spoons and forks which were taken should have been in the sliding shelves immediately above the space where the teapot, &c., were. The teapot and stand, and cream jug, I found all right. I should think any one who opened the door of the wing where they were, and who saw the spoons which were taken, must have seen them. I have often thought that if the spoons, &c., were in the shelves, it was odd the teapot, &c., were not also taken. My own idea was that the spoons, &c., had been carried downstairs by the servant to be cleaned. The circumstance of the cruet frame being found in her room, while the bottles belonging to it were standing on the sideboard, suggested this idea. The cruet frame was plated. In the dining-room press a case of silver dessert knives and forks was kept, but that press was locked.

When I was at home my father dined with me and my son always, and the spoons, &c., which were taken were in daily use.

The sugar basin of the tea service (silver) was in an open press in the parlour behind the dining-room. I had put it there myself; indeed it was generally there for convenience, as it was used in the evening, and we generally sat in the parlour in the evening. My father took no charge of the silver; the servant had the whole charge. She was a trustworthy person, so much so, that when she first went away to commence a shop I was sorry to lose her. I kept the house in town open principally on my father's account, as he did not like travelling back and forward. During the summer, I generally dined and slept at Sandyford Place on Monday, Tuesday, and Thursday.

My father's general health was good, but he was not strong, and was subject to colds. He generally went to bed about nine in the evening, and for some years back he has not been in the habit of rising till after nine in the morning, except on the Monday morning. He generally got his porridge in his bed between eight and nine, after

J. Fleming the milk was brought, which was always about eight or shortly after, and I am sure never before eight that I heard of. I always heard the bell ring. It was generally the first ring at the door of a morning. He usually got a cup of tea after my son and I had gone to town. We went about ten. He has not, that I am aware of, got up till after nine for some years, except on Monday. He may have done so on an occasion, but I am not aware of it. On Mondays he was generally away to town about eight or shortly after. He went to collect rents that day from tenants who were labourers. It was the servant who took his porridge to his bedroom, and I understood he got the milk that came in the morning. It came regularly; I generally left some whisky in the parlour press, which both the old man and the servant had access to. I don't think I had ever any reason to complain of his using too much. It was never left in that quantity that I could make any serious complaint about it. I can't say that I may not have made the remark that too much had been used. I never said so to him or the servant; I may have said to my sister when we were all at home, "Maggie, how quickly that bottle goes down." My sister lives with me.

The deceased had no followers that I knew of, except Mary Downie and a half-sister, who married a man in Greenock. So far as I knew, no one was in the habit of staying all night with her. No one ever told me that her half-sister or any one remained all night with her. My father had a high opinion of her as an attentive, industrious woman. Such an idea as that he might marry her never occurred to me. He never took any meals in the kitchen that I knew of, but he was so homely that I should not be surprised if he did when I was away. I have heard my sister say that Jess was thinking of emigrating.

My father is eighty-seven; I produce a certificate of his baptism, which he kept in his drawer, and which I have seen often.

(*Before the Sheriff*, 30 *September* 1862.)

R. Stewart Robert Stewart says—

I am a jeweller in Glasgow, and reside at 16 Sandyford Place there.

My house adjoins Mr. Fleming's on the west. On the night of Friday, 4th July, I reached home about half-past ten o'clock. The members of my family were all at that time in the country, having left town by the Ardrossan boat at or about a quarter to one that day. A female servant, Elizabeth Brownlie, and a little girl, Elizabeth Campbell, aged about twelve, daughter of a woman who occasionally assists in cleaning the house, were the only parties in the house when I reached it. This little girl came to the house during the evening, and stayed all night with the servant, to keep her company. The girl's parents live in College Street, west. Immediately after reaching home, I called the servant upstairs, where we had worship, and about eleven o'clock I went to bed. I don't know when the servant went to bed. I never was in Fleming's house, but I believe his house and mine to have the same accommodation, and to be built on the same

plan. My bedroom is on the ground floor, facing the front door. On getting into bed, I placed myself in a half sitting, half lying posture, with my head resting on the board of the bed, and the bed-clothes only partially covering me; and in that position I fell asleep. I must have fallen asleep very soon after. I wakened in a fright. I should not like to say it was a scream that wakened me, but my impression is that it was. My first thought on wakening, and I said so to myself, was, "What can that be? It's surely not in the room, there's no person in the house." Instead of rising to see what o'clock it was, I looked round to the window, which is at the side of the bed, and about 5 or 6 feet from it, and saw that it was dark, as dark as when I went to bed. I am perfectly sure of that. I did not look at my watch; I cannot therefore say what o'clock it was, but I could not have slept long, and my impression is it was not after one o'clock. The sun rose at 3.41 that morning. Finding everything quiet, I composed myself to sleep, and did not waken again till about seven o'clock, which is my usual time for rising. I left the house shortly after nine. **R. Stewart**

I have a very confused idea of the description of scream referred to. At the time I heard it, I formed no opinion of who made the scream, or where it came from. There was just the one scream. I was in no dream at the time. I am quite sure of that.

When the murder was discovered, but not before then, I mentioned to my wife about the scream; and on reading in the newspapers old Mr. Fleming's statement about squeals at four in the morning, I remarked to my wife that if ever the truth came out about the exact time when the murder was committed, it would turn out to have been at midnight.

Up to this time I have formed no opinion as to where the scream came from, although in my own mind, since the discovery of the murder, I have connected the scream with Fleming's house. The partition wall of my bedroom is thin, and you can hear loud reading or voices from the adjoining room in Fleming's house. The partition wall is within 4 inches of the head of my bed; or rather, my head, in the position it was that night, was within that distance of the wall.

My servant and the little girl slept that night in the laundry in the sunk flat. I would more readily hear any noise in Fleming's house, from my bedroom than my servant would from hers; at least I think so. I heard no other unusual sounds that night or morning.

The Procurator-fiscal saw me in my shop shortly after the murder. I do not remember his asking me if I had heard any noise in my house on the said Friday night. I told him I could give no information. I did not then make any allusion to the circumstances before spoken to, on the Friday night, and I did not give him any information on the subject until the Monday after the trial of Jessie M'Intosh or M'Lachlan, and I then introduced the subject by telling him that I had frequently thought of telling him of it, but that I did not think it of any use.

(*Before Mr. Young.*)

It may have been a quarter of an hour, or it may have been two hours after I fell asleep that I was awakened; I cannot tell. I went

R. Stewart to bed at eleven, and fell asleep immediately. I would not like to swear it, but I feel sure it was a voice, a human voice, which made the noise that awoke me. The noise may have been not later than a quarter past eleven, or it may have been one o'clock, or between these hours; it was not later than one, or there would have been some light, and there was none. There were no shutters on the window.

(*Before Mr. Young.*)

J. Fleming, jun. JOHN FLEMING, junior, a Witness examined at the Trial—

When I went to Sandyford Place on the Monday afternoon, my grandfather was taking in meat from a butcher's boy at the front door. I asked him where the servant was. He answered, "She has cut; she's away; I have not seen her since Friday, and her door's locked." This was said after he had taken in the meat, and we were inside the house and the door shut. We went into the parlour and I asked him some questions. I asked if he had never thought of opening her door, and he said "No." I was blowing him up; I was rather strong in speaking to him, for I was sure there was something wrong. I felt queer myself, for I thought there was something up when I heard that her door was locked.

Interrogated—

What did you think was up?—I thought she was dead; I could not believe she would go away, she had been so long with us; and I think I made the remark, "Had he never thought she might be dead?" I can't mind what he said; he just looked and stared, when I put the question, as if he had never thought of any such thing, and said, "I have not seen her since Friday." That was all he said. I recollect him saying, "Dead or not dead, she's away." I think he said this before my father came.

What was your impression when you saw the body and the wounds?—I thought, perhaps, she and some old lover had quarrelled; I could form no idea of it at all. I think my grandfather said the front door was on the latch; but nothing, that I remember, of the pantry window. I think it was early in the evening that my father searched the sideboard.

The silver tea service usually stood in the dining-room press, locked up; but whether it was there that day I cannot say. It might have been in the sideboard. There were two silver tea services in the house. I am speaking not of the one which was in daily use; that in daily use stood in the press in the lobby, between the parlour and the dining-room doors. There was a great lot of talk about the silver things; but I cannot remember it. I never thought it odd that my grandfather should not have missed the spoons, &c., that were taken. The spoons, &c., taken were usually kept in the sideboard, and were used daily whenever I was in the house, and my grandfather used them like the rest.

My grandfather generally went to bed between eight and nine; about nine; sometimes earlier, and sometimes later. He never got up

in the morning till my father and I were done breakfast. We breakfasted at half-past nine. His porridge was taken to him in his bedroom regularly every morning when the milkman came; after the milk came. He got the morning's milk always. The milk generally came about eight, or near eight; rather before it. I have seen it after eight, perhaps, ten or fifteen minutes. J. Fleming, jun.

Mary M'Intyre, dressmaker, 77 Port Street, Cranstounhill, 40 years of age— M. M'Intyre

On Friday the 4th of July last I was sewing all day to Mrs. Service, No. 8 Sandyford Place. She, and her husband and daughter, had just returned from London on Thursday night (3rd July); I also sewed with her on the Saturday, and the Monday and Tuesday following.

I was intending to sleep at No. 8 that night, but I went down to my house, 77 Port Street, to see my brother, and ascertain how he had been getting on during the day in his endeavour to get a vessel for India. It was about ten when I left Sandyford Place, and I was returning up Elderslie Street on my way back to Sandyford Place, about eleven o'clock. At Cranstounhill, which is on the south side of the Dumbarton Road, I observed the spirit shop there was newly shut, as I saw the lights there under the door; I took notice of this circumstance at the time as I passed, because I had not thought it was so late till I saw it must be after eleven. I went straight up Elderslie Street, keeping the west side of the street, and when I arrived at the corner of the lane behind Sandyford Place, or near that, I saw two women standing near a lamp at the close mouth there; I thought at the time one of them was Mrs. Walker, whom I know quite well by sight, but I took no particular notice, and I also thought the other was Miss Dykes; I passed them quite close on the pavement where they were standing. As I was coming up the street towards the corner of the lane, and just when I was at a low wooden house (a shoemaker or a sweep's office), which stands on the west side of the street, a little below the mouth of the lane, I saw a woman pass into the lane before me; she was dressed in a grey cloak or shawl, I cannot say which; I did not observe any other part of her dress; she went in along the lane. I observed a man coming down the street, who passed her just as she entered the lane, and he gave a look into her face and went on. When I came up to where Mrs. Walker and Miss Dykes were standing I heard them making some observations on the woman who went into the lane, the purport of which I caught in passing to be, what was the woman doing in there. I distinctly heard, "in there at this time of night"; and I remember that when I heard them the thought just crossed my mind, what will they think of me out at the same time. I went straight past them, and round along the street opposite Sandyford Place; I was walking pretty quick at the time. When I came to the opening that leads into No. 17 Sandyford Place, there were two or three ladies, and I think a gentleman with them, standing at the opening. There were also two young gentlemen, not apparently belonging to the other party. These people were all, as I thought, talking

M. M'Intyre of something that had attracted their attention. As I came up I heard one of them say, "I heard" (adding some words), but I don't know what; and another said, "I think it came from that house where the light is." I stopt to listen, but I heard nothing; and the one party went towards Charing Cross and the other in the opposite direction towards Royal Crescent. The two young men went towards Royal Crescent; they walked on very rapidly, and I walked in the same direction, but not so quick. I had only got a few steps on, and just as I was opposite No. 17, I was rather a little past it than opposite it, but certainly not past No. 16, when I distinctly heard something which made me stop and listen; it was a low, wailing noise, just like the moaning of a person in very great distress. It was my impression at the time that it was the moaning of a person in distress. There was no wind that night, a calm night; the sound was quite distinctly audible to me, a moaning, doleful kind of sound, which rather frightened me, and I thought at the time that it came from the house which I was just barely past in Sandyford Place, viz., No. 17. I did not think of the number at the time, but I have since examined the place repeatedly, and am sure it was No. 17; it came from the house where a light was. The light was from a window, or it may have been two windows in the front area; I rather think there was no light in the house on either side of this one; I think the light I saw proceeded through windows, or a window with white blinds. I just heard the one moan; I stood still a few moments, and felt inclined to go up to see what the sound was, but I felt sort of frightened, and then walked hastily on to No. 8. I was on the road outside the shrubbery.

On Monday night, 7th July, I was in Mrs. Service's. Mrs. Macfie's cook, Mary Mackinnon, at present at Islay House with Mrs. Macfie, was there, and also Mrs. Service's girl, Ann Campbell, at present with her. The cook came in with the news that there was a murder at No. 17. I said to Ann Campbell that if it had been done on Friday night I would have thought it was what I heard on that night. I have rather an aversion to mention these things; and I did not think it of any consequence at the time, and said no more about it.

I would not have mentioned it at all, but that some of my friends to whom I related it advised me that it was my duty. I went to consult my minister, Mr. M'Ewen, and an elder, whether I ought to go forward with the statement, as I would very much rather not have done so. They were from home, but Mrs. M'Ewen strongly advised me to go.

A. Campbell Ann Campbell, Servant with Mr. and Mrs. Service, No. 8 Sandyford Place.

I have been three years there. I am thirty-three years of age. My master and mistress returned from London on Thursday, 3rd July last. Mary M'Intyre was sewing in the house on Friday, 4th July last, and also on the following Saturday, Monday, and Tuesday. She

had been staying with me at nights for some weeks when the family were in London on a visit. On the Friday she left, to go home to see her brother, at ten o'clock, and returned about twenty minutes after eleven. I said something about her being late of coming in, and she said it was not so late; that she had seen a message boy on the street, whom she had thought was Mr. Walker's, and I said I thought it would be Miss Dyke's. I don't remember of her saying anything about having seen ladies or gentlemen on the street. On Monday, 7th July, Mrs. Claud Macfie came to our house from Edinburgh, on her way to Islay, and brought two servants (cook and tablemaid) with her. These two servants went out about nine that evening, and came back about ten, or a little after. The cook, Mary Mackinnon, told us that she had heard of a murder which had taken place in No. 17, and she said she thought the name of the people was Fleming; and Mary M'Intyre was present, and heard it. She (M'Intyre) said if it had taken place on Friday night that she would have thought it was the voice she heard when she was coming home that night. She repeated this on Tuesday morning. We went to Inverkip, down the Clyde, on the Wednesday, and she came the following week. She told me, either there or in Glasgow, before we left, that she had noticed two or three ladies standing, and two young gentlemen, opposite Mr. Fleming's house, on the outside of the strip of shrubbery, and that they were standing there as if they had taken notice of something about the house; and she said she heard them say that "it seemed to come from that house where the light was burning." After she heard of the murder she seemed to be put about, connecting what she had heard on the Friday night with it.

A. Campbell

She was out on the Saturday night also, from about ten till about eleven, seeing her brother, as I understand. It was Mrs. Service who let her in on the Friday night, as I had gone to bed. I let her in myself on the Saturday night.

(*Before the Sheriff*, 30 *September* 1862.)

Mrs. Jessie M'Kenzie or Walker, aged 32, says—

Mrs. J. Walker

I saw a second woman coming up Elderslie Street at the time I saw the woman pass into the lane. The witness, Mary M'Intyre, has on the same kind of cloak. There was also a man going down Elderslie Street, and he passed the end of the lane, just a few steps before the woman. Old Mr. Fleming was in the habit of wearing a brown coat. I saw him have it on less than a fortnight before the murder, and it might be a week. The brown coat he wore had outside pockets; he always wore it from the time we opened the shop in Elderslie Street, two years ago last June.

I am wife of James Walker, grocer and provision merchant, and reside at No. 143 Elderslie Street, Glasgow.

I remember being at Gourock, on Friday, the 4th of July last, and I arrived at my own house on my way home, about ten o'clock in the evening.

One of my husband's shops is in Elderslie Street, and three doors

Mrs. J. Walker above our house. After my arrival home on said evening I went from the house to said shop, and would be there between a quarter of an hour and twenty minutes.

When I came out of the shop I did not feel very well, and thinking I would be the better of the fresh air, I, instead of returning to the house, rung my door bell at the foot of the stair, and on its being answered by my servant, I told her that I would wait at the close mouth for the return of my husband and brother, who, I had been informed, had that night gone to Gilmorehill Gardens.

When I was passing Miss Dykes' shop door she opened it and asked me if I had got home from Gourock, and hoped I was none the worse of being there.

I told her that my husband and brother were at Gilmorehill, and I thought I would be the better of air, and that I was going to wait for their return.

We stood together on the pavement a little way below our close mouth, till about a quarter-past eleven, when my husband and brother returned, and I went with them to the house. While so standing with Miss Dykes, and about two or three minutes before my husband and brother returned, a woman passed by us and turned into the lane leading to the back of the Sandyford Place houses. I first observed said woman stepping from the causeway on to the pavement a little way below our close mouth, and just at the back of where Miss Dykes was standing. I did not see her face, but I remarked her figure and dress. She was pretty tall, square shouldered, and walked very quickly. She was dressed in a dark bonnet, but of what material it was made I cannot tell; a brown dress, either coburg or merino, but whether it had a flounced or plain skirt I did not observe. She also wore a grey cloth cloak; the particular shape of it I did not notice. I have to-day been at the north prison and seen Jessie M'Intosh or M'Lachlan; I cannot say that she is the woman whom I saw on said Friday night. She recognised me and named me. While she was in Mr. Fleming's house I remember having seen her, and I have often served her in my husband's shop; but she is much changed since then. I heard of the murder of Jessie M'Pherson upon Monday the 7th July.

I was not then asked by the police whether I had seen any person going into the lane on the preceding Friday night, but the police were often out and in my shop about the time of the discovery of the murder, and I told them all I could to throw any light upon the subject. I remembered quite well the circumstances of the woman passing Miss Dykes and me on the Friday night, but I took no thought of it, and never mentioned it to the police. I thought no more of the circumstance until Sunday the 31st August last, when my husband asked if I remembered the circumstance of standing at the close mouth on any night along with another person and seeing a woman passing into the lane.

I then recollected the night on which I had been standing with Miss Dykes waiting for the return of my husband from Gilmorehill, and I told him this. He then asked me about her dress, and I informed

Mrs. J. Walker

him; and he told me that Mrs. M'Lachlan's agents had informed him that that woman was Mrs. M'Lachlan, and that she had recognised me, but did not know the person that was along with me.

When said woman passed us she appeared to be carrying something in her right hand, but I cannot say whether she really was carrying anything or not. Just as Miss Dykes was coming out of her shop to join me on said night, I observed a woman come out of the lane and cross to the middle of the street; but I did not follow her farther. I cannot say whether said woman was the same person who afterwards passed us going into the lane, as I did not remark either her dress or appearance, but merely saw she was a woman. It was a few minutes before eleven when said woman came out of the lane. I am quite certain that it was neither twenty minutes nor a quarter before eleven when Miss Dykes joined me, and I am quite certain I did not stand with Miss Dykes three-quarters of an hour on said night.

Between Miss Dykes' shop and my husband's there is a spirit shop kept by Robert Robin, and I am quite sure that said shop was not shut when I saw the woman come out of the lane and cross to the middle of the street, for I remember seeing Robin's shopman, David Reid, lock up the shop a few minutes after I had seen said woman.

I was in Mr. Fleming's house on Monday afternoon the 7th July, about five o'clock.

I was in the sunk flat, and walked along the lobby and looked in at the kitchen door. I noticed no marks of blood either in the lobby or in the kitchen, neither did I observe any mark of the trailing of the body along the lobby; but the back door was then shut.

The kitchen appeared to be clean and tidy, and a good fire in it. I did not notice whether the lobby or any part of the kitchen was damp; the stone is of such a dark colour that it would be impossible to tell this without touching it.

Mr. John Fleming told me that the servant's bedroom door had been locked inside, and from that I understood that she had committed suicide. Jessie M'Pherson never said anything to me about old Fleming. I make it a point never to speak to servants concerning what takes place in their master's houses. I never knew nor heard that Jessie M'Pherson was addicted to drink. I never saw her have the least appearance of having been drinking. I considered her a very respectable woman. I know old James Fleming, and I frequently served him in my husband's shoop. I know nothing against his character.

D. M'Quarrie

Donald M'Quarrie, the Milkboy, a Witness examined at the Trial—

I reside with my father, John M'Quarrie, a labourer, at 56 Waters Street, Port-Dundas, in or near Glasgow, aged thirteen years.

I was in the employment of the witness, George Paton, for nine or ten months, and left him about two months ago. I went along with his cart when he sold milk, and I called on the customers and told them that the milk was at the door.

D. M'Quarrie I know Mr. Fleming's house at 17 Sandyford Place, and I was in the habit of calling there. I knew the deceased Jessie M'Pherson by sight, but not by name, and she was the person who generally answered the door, but at an occasional time the other servant answered it. I called at the door about twenty minutes to eight o'clock on Friday morning, the 4th July last, and Jessie opened it, and she handed me a jug and said she wanted 2d. worth of milk. That was the last time I saw her. I called at the house again at half-past two o'clock afternoon, and the door was opened at this time by old Mr. Fleming, who said he did not want any milk. I called again on Saturday morning and afternoon, and on Sunday and Monday mornings at the hours that I called on Friday, and the door was opened by Fleming on all of these occasions, who told me he did not require any milk. On Monday afternoon I again called, when old Mr. Fleming came outside the door and paid George Paton for the milk that he had received on the previous week, but I do not know how much that amounted to. He got no milk at that time.

I did not ask old Fleming what had become of Jessie M'Pherson. He was always dressed when he opened the door to me. On Saturday morning the chain was on the door when I went to it, and Fleming took off the chain before he opened the door. He did not appear to be excited in any way. I cannot say whether the chain was on the door on any other occasion when I called at it. I never went inside the door. It was the front door that I always knocked at. Old Mr. Fleming never answered the door till the Friday afternoon referred to. He appeared to be quite sober. I thought it strange that he should open the door, but I made no remark. The milk was paid once a week; generally on Monday afternoon, and old Mr. Fleming was the person who paid it.

(*Before Mr. Young.*)

On the Saturday morning four boys, including myself, attended Mr. Paton with the milk through Sandyford Place. We called at fifteen or sixteen houses there, and No. 17 was the last I rung at. After I had rung there and the bell had been answered, Mr. Paton looked at his watch before we left Sandyford Place to go to Park Gardens, the next place we went to, and it was just twenty minutes to eight.

In the winter time, when all the customers are at home, we have been as late as a quarter to eight in calling at Fleming's. I don't think we were ever later than that. I never was so late as eight.

Old Fleming was very well dressed on the Saturday morning, better than I ever saw him dressed before. I have seen him before when he was paying for the milk. He paid weekly, in the afternoon. He was usually dressed in a black coat. George Brown (another boy) rang the bell of No. 19 when I was calling at No. 17. The milk cart stood at the same place, nearly opposite No. 17, waiting for us both.

Appendix III.

(Before Mr. Young.)

Saturday, 18th October.

CHARLES O'NEIL, Architect, examined. C. O'Neil

By Mr. DIXON—At that part of the corner of the room marked M and Q on the plan, would you describe the appearance presented on Tuesday, 8th July?—It had evidently been washed. The parts towards the one side showed spurts of blood; elongated drops of blood, partly on the hearthstone and partly on the floor, coming round from here (points out on plan). This other portion (showing) had evidently been washed. It had a reddish hue, as if blood had been washed.

But the portion round the centre of the irregular circle was unwashed; the edges were unwashed, and the spurts remained?—Yes.

By Mr. YOUNG—Do you think it had been all more or less bloody, and that the marks indicated on the plan are just the fringes of what the washing left?—Yes, except here (showing) where these bloody marks were, was very distinct; but it was just like the edge of the washing, having a reddish hue.

In short, the marks of blood on the bedroom floor, between the table and the fireplace and the press, are apparently just the outer fringes left by the washing?—Yes.

The centre, which is shown unmarked on the plan, having originally, in your opinion, been bloody too, but washed up?—Yes.

By Mr. DIXON—Did you draw any inference from the elongated spurts or splashes?—My impression was that something heavy had fallen on the floor at that place. The splashes were all directed towards the window and towards the wall.

By Mr. GEMMEL—In wiping up the centre portion, and drawing round the cloth, would that not have thrown the blood on the hearthstone?—They were more like splashes that were thrown from a certain point in one direction.

By Mr. YOUNG—I cannot tell how the marks were produced. They might have been produced either way; but it occurred to me at the time that the blood had come from some body that had fallen.

By Mr. DIXON—There were some marks inside the press door in the lobby, just at the top of the door. The height of the door was about 6 feet 9 inches. I measured one or two of the doors, and they are all about the same. The marks were at the very top, on the top rail of the door.

By Mr. YOUNG—The bedroom floor was quite dry. The part that had the appearance of having been washed was much cleaner than the rest of the floor that was not bloody. I had no doubt that it had been washed. The marks I have spoken of are on the opposite side of the table from where the body was found. The body was found between the table and the bed, and the marks I have spoken of were between the table and the wall in which the fireplace is. I could not understand rightly what was the cause of the marks on the top rail of the press door; they were like marks of recent blood; the

C. O'Neil

same colour as the marks in the other parts of the house. I could not say that they were finger marks; they were not such marks as bloody fingers might have produced; I had the impression that it was more like a cloth going against the door, but I could not see what a cloth would be doing there; there were two marks, each about 3 or 4 inches square, but irregular; they were not like finger marks.

Suppose there had been somebody inside the press with bloody hands, or having a bloody cloth in the hands, keeping the door shut from the inside and pressing against it, would that account for the marks?—The door opened to the passage. The person inside would have had to draw the door to him. The marks could not be produced by keeping the door shut, except there was a way of catching the door on the top and drawing it to. The door opens outwards, and the marks were in the inside, so that they could not be produced by a person pressing the door to.

Mr. Gemmel—I did not examine the top of the door. There was some little mark of blood on the soffit; on the lintel of the upper portion of the door, on the outside; but I did not look at the top of the door.

(*Before the Sheriff*, 1 *October* 1862.)

Mary Brown

Mary Brown says—

I reside at 4 Canal Street, Port Eglinton, Glasgow, with my mother, Jean Paton or Brown, a widow; aged nearly sixteen years.

I am at present employed in Galbraith's Calender, in St. Vincent Street, and I have been there for about six weeks.

I was for six months in the service of Captain Lime, 186 St. Vincent Street, and I left about three weeks before last May term. On leaving that service I went to work in Walker's mill, in Canal Street, where I had a sister employed, but I only remained there about a fortnight. After that I was out of regular employment until I entered the calender, where I am at present employed.

I became acquainted with the deceased Jessie M'Pherson about three years ago; she was then a servant in the house of Mr. Fleming, in Sandyford Place. I knew a Highland girl who was a servant in the house next to Fleming's house, and I used to wash out the door steps for the Highland girl, who introduced me to M'Pherson. I do not know the name of the Highland girl, nor who was her master. Jessie M'Pherson asked me to wash out the steps of her door for her, and I did so, and I continued to wash the door steps for her regularly on the mornings of Wednesday and Saturday, for about three months. This was about a year ago. I got a situation in the house of Mrs. Oliphant, Hunter Terrace, where I remained for three months, and during that time I never saw Jessie M'Pherson.

I called on Jessie M'Pherson for the first time after I left Mr. Oliphant's service, about a month before M'Pherson's death. I think I called on her five times during that month. On two of the occasions I washed the door steps for her; on another occasion I went to a flesher's shop in Sauchiehall Street, west from North Street, for a

pound of steak for her; on another occasion I cleaned the window of a back bedroom on the floor as a person enters the front door; and on the other occasion I swept the front door steps and the stair leading down to the kitchen. Jessie generally gave me 3d. or 4d. for my trouble. I had been in Mr. Fleming's house about a fortnight before Jessie's death, and that was the time that I swept the front door steps and the stair leading down to the kitchen, and Jessie gave me 3d. for my trouble. I generally went to the house about eight o'clock morning, and left about half-past eight o'clock. I never saw any of Mr. Fleming's people when I was in the house. The occasion on which I cleaned the bedroom window was about eleven o'clock forenoon, and Jessie had told me what time I was to come. She generally told me before I left the house what day I was to come back. Mary Brown

She told me to call on a Saturday, being the one after Jessie was murdered. That was about a fortnight before her death. She said that Mr. Fleming's family were going from home, and that I need not call so often as I had been doing. I called at Mr. Fleming's house on said Saturday morning about nine o'clock. I know the hour from having left my mother's house about eight o'clock. I went to the front door and rang the bell, as I had been accustomed to do, and old Mr. Fleming opened the door. I had only seen him once before, and that was when he was going out of the house, and Jessie told me he was old Mr. Fleming. I only rang the bell once, and after a little delay old Mr. Fleming opened the door, but the chain was on it. He said "Well," and I said "I was the girl who washed the steps for Jessie." He then took the chain off the door and let me in, and he shut the door and put on the chain. I stood in the lobby when he did this, and then I went on towards the stair leading to the kitchen, and when I got to the head of the stair old Mr. Fleming asked me if I would wash a piece of the lobby that he pointed out. The place referred to was between the back bedroom and the head of the stair. The place was soiled as if it had been trampled on with persons having soot on their feet; I saw no appearance of blood on the floor. I agreed to wash the floor, and Mr. Fleming brought me a pail of water and a piece of new flannel, out of a closet under the stair leading to the top flat, and I washed the floor therewith. Mr. Fleming stood beside me all the time I was washing the floor, which did not occupy more than ten minutes. I lifted the pail to carry it downstairs to empty the water, but he told me to leave it where it was, and I did so. Mr. Fleming then gave me a sixpence piece, which he took from his pocket, and then let me out by the front door, and then I went direct to Mrs. Napier's, in Elderslie Street, and washed her stair, for which she gave me 1½d., and then I went home and gave the money to my mother.

I did not see Jessie M'Pherson on the day last referred to. I did not ask for her, and old Mr. Fleming said nothing about her. Fleming was wearing a black coat and trousers, but had no vest. He did not appear to be excited, and I had no suspicion that anything was wrong. I never went downstairs. I heard of Jessie M'Pherson's

Mary Brown death on the following Wednesday, and told my mother what I have now stated, but she told me I was not to be talking about what I have been stating, as it was of no consequence. I did not tell any person of the matter till Friday of last week, when I told it to a girl, Beveridge, who told a policeman, and he called on me on Sunday following and took me to the police office, where I saw Captain Robb, and told him what I have now stated.

I never saw Mrs. M'Lachlan, the prisoner, and I never heard Jessie speak about her. Jessie never said anything to me about old Mr. Fleming. I am quite sure it was on the Saturday immediately after Jessie was murdered that I called at Mr. Fleming's house, as above stated.

I cannot say that it was the marks of feet that I washed, but the place appeared to have been trampled on. The place was about a yard broad and about 2 or 3 yards in length.

(*Before Mr. Young.*)

By Mr. Young—The place which I washed in Mr. Fleming's house, in Sandyford Place, was between the back bedroom and the head of the stair; the bedroom door faced it, and it sloped along to the stair; the floor was covered with waxcloth. Mr. Fleming brought me a pail of water, and a piece of flannel out of a closet. The closet was on the right hand side as you go in at the front door, opposite the head of the stair leading down to the lower flat. It was not under the stair, but on the opposite side of the lobby from the staircase. The mark that I washed was as if there had been people passing from the stair into the bedroom; it was like soot; it was not wet; quite dry. Old Mr. Fleming had on a black coat and black trousers. The coat was buttoned; it looked as if he had newly taken it out of a chest; not like a coat that he had had on the night before. He had not a vest. The coat looked as if it had been new ta'en oot of a kist; it had creases in it; it was a long-tailed coat, such as I have seen gentlemen wearing at funerals and at church on Sundays; it was buttoned across the front, tight up to the neck. I thought he had no vest because his shirt showed between the bottom of the coat in front and the top of his trousers. He was not like a man dressed for the day, but like a man who had hurriedly put on a coat. He answered the bell when I rang; he was not long of answering it; he was longer than a servant usually takes to answer the bell, because a servant comes quickly to the door, and he took his own time. I was a good while at the front door before I got in; I did not ring more than once—just the once. I had not been any place that morning before going to Mr. Fleming's; I went from my mother's house there. It would be twenty minutes past eight o'clock when I left my mother's; it would not be afore that; I don't think it would be any later. I never leave my mother's later than half nine (half-past eight)—that is the latest; when I am any later I don't go out till two o'clock. My mother lives at 4 Canal Street; her name is Mary Brown. My father is dead. I live with my mother; there are six

of us, one older and four younger than me. My mother and the four younger were in the house that morning when I left. Leaving Canal Street at twenty minutes past eight, I would be in Sandyford Place at a quarter to nine. I generally walk pretty quick; I walked pretty quick that morning, for I had some work to do afterwards. I went straight to Sandyford Place, and it would not be later than a quarter to nine when I got there. I did not see anything unusual about the house. I am quite sure that this was upon the Saturday before old Mr. Fleming was taken up. I heard of the murder on the Tuesday, and on Wednesday I told this to my mother. My mother told me to hold my tongue, and not be blethering about things I had no right with. When she said that, I was telling it to the woman next door, who was in seeing my mother. I did not know Jessie M'Lachlan; I do not remember meeting any woman carrying a bundle on my way to Sandyford Place on the Saturday morning. I am quite sure I was in Fleming's house before nine that morning, not later than a quarter to nine, and not earlier, but just at a quarter to nine. When I left there I went to Mrs. Napier's, a lady I used to work to in Elderslie Street. She is still there, and able to go about. She is a widow. I washed down her stair. When I left Mrs. Napier's I went straight home; when I got home it was not more than half-past one. I had gone messages for Mrs. Napier. I forget the name of the woman next door, to whom I was telling this when my mother told me not to be blethering about it. She lives next door still. My mother is lying in a decline; she has not been out of the house for the last two years. **Mary Brown**

By Mr. Gemmel—The first person that I told this to after the trial was a girl named Bella Beveridge; she told it to a policeman, and the policeman told it to Captain Robb. I was taken to Captain Robb. I did not tell him that I had been washing down the sunk flat. I did not say that I had got water from a water-closet; I said it was a closet. He asked if it was a water-closet, and I said I could not be certain. He asked if I heard the water drawn, and I said no.

(*Before the Sheriff*, 1 *October* 1862.)

Colin Campbell, aged 22, a Witness examined at the Trial, says— **C. Campbell**

I am a night constable in the western district of the Glasgow police.

I have been in the Glasgow police force since 10th December last, and since about the 20th June my beat has been Sandyford Place and neighbourhood. In the summer when families go to the coast they report the fact at the police office, and their houses are put under charge of the constable on the beat. In the beginning of July last, No. 18 Sandyford Place was so circumstanced. Between half-past eight and a quarter to nine o'clock on the night of Saturday, 5th July, I was standing at the door of 18 Sandyford Place, with the handle of the door in my hand, trying it if secure, and at that time the door, No. 17, opened, and two women came out. I saw no

C. Campbell

man. One of the women pulled to the door, but did not shut it. They stood on the door step speaking, but I did not hear anything they said—not a word; they were speaking low. They so spoke for about five minutes, and one of them went back to the house and shut the door, and the other went eastwards, along Sauchiehall Street. I followed the latter as far as the corner of Elderslie Street, where my beat stops; she continued eastwards along Sauchiehall Street, and I paid no more attention to her, and can't say where she went. I do not know either of these women. I am sure Jessie M'Intosh or M'Lachlan is not one of them. I did not know the deceased Jessie M'Pherson. The woman that went along Sauchiehall Street was a low-set, stout woman, red, fat face, white straw bonnet with blue ribbons, dark grey cloak. I can't describe the gown, and she would be about twenty or twenty-two years of age, and had a decent, servant-like appearance, and seemed quite sober. The other woman had a white mutch on—no bonnet, a light-coloured gown, white apron, not very tall—a little taller than her companion; thin, dark hair, about twenty-nine years of age, and also sober. I saw no more of these women. I was often back to 18 that night, but saw no person at No. 17, and everything seemed quiet within. I went off duty at six on the following morning.

I heard of the murder about eight o'clock on the following Monday night, before going on duty, and I was taken before detectives and asked if I heard any noise about 17 Sandyford Place during the night of Friday or morning of Saturday. I had heard no noise, and had seen no person go in or come out of that house that night or morning, and I said so. I did not at that time remember the circumstance of the two women. I remembered it, however, between nine and ten that Monday night, when examining door No. 18, and I told Captain M'Call about it about eleven o'clock.

I am able to fix Saturday as above, because I wrote a letter about five o'clock that afternoon in my lodgings, to my father, Donald Campbell, ploughman to a farmer, whose name I forget. I mind now, it is John M'Kenzie, at Keppoch, near Oban. After writing that letter I put it in my pocket to post when I should go on duty, and when at the corner of Elderslie Street, as before mentioned, I happened to put my hand in my pocket, and I found I had not posted my letter, and I turned and posted it at the Receiving House at Sandyford Toll, which is a short way beyond my beat. My beat ends at Kelvingrove Street, and Kelvingrove Street runs into Dumbarton Road, near Sandyford Toll.

I wrote the letter on the kitchen table in my lodgings, and my landlady, Mrs. M'Kay, was going back and forwards all the time.

A young man, Allan M'Lean, was in my company previous to my going to examine No. 18. He stood on the pavement outside the railings, in front of No. 17, while I was at 18. I saw him standing there. He was not looking in my direction; his back was to the railings. I joined him, after my examination of 18; he accompanied me to the corner of Elderslie Street, and, I think, he waited about Sandyford Place till I posted the letter. I joined

him, after posting the letter, either in front of Sandyford Place or of Fitzroy Place, which is a continuation of Sandyford Place, and he walked with me round my beat till about ten o'clock, when we parted at Kelvingrove Street, he going in the direction of Kelvinhaugh, where he lives, and I did not see him again that night. I told him before posting my letter that I was going to do so, but I don't think I showed it to him, although I may have done so. There was a postage stamp on my letter when in my pocket; I put it on in my lodgings.

I did not know on said night that No. 17 was occupied by Mr. Fleming, and I did not know any of the Flemings.

I have not written to my father about posting said letter. I belong to Argyllshire. I don't know Jessie M'Intosh or M'Lachlan, or her friends. I never saw the former till I saw her during the trial.

I am not aware of ever having seen either of said two women before said Saturday night.

It was detectives Donald Campbell and Jeffrey that asked me on the Monday night if I heard any noise or saw any person about No. 17, on the Friday night or Saturday morning.

On said Monday night, and, I think, after I told Captain M'Call, as above, detective Audley Thomson asked me, in front of Sandyford Place, if I saw any person or heard any noise on Friday night or Saturday morning; and I said to him that I saw the above two women, but was not sure whether it was on the Friday night or the Saturday night that I saw them. In reality, I was not perfectly sure at that time. It was about the following Wednesday when I became quite sure it was on the Saturday night, when I told Audley Thomson as above. I had no recollection of the posting of the letter. On the Tuesday morning I asked my landlady if she minded when I wrote last, and she said, as far as she recollected, it was on the Saturday evening. This made me almost perfectly sure that I wrote the letter on Saturday; but, before saying anything about it, I wanted to make inquiry and become positive, and on said Tuesday night I met the said Allan M'Lean in the police office, as I think, and I asked if he recollected whether it was Friday night or Saturday night he was up seeing me last; and he said it was Saturday night. I told him I was sure in my own mind it was Saturday, but wanted his opinion also. I am quite sure now it was the Saturday night.

(*Before Mr. Young.*)

I am night policeman in Sandyford Place. I know the lane door of Mr. Fleming's house. That door is always kept locked at night. I never saw it open. I try all the doors every night when I go on duty. I was on duty in Sandyford Place on the night of 4th July. My beat is a pretty extensive one. Sandyford Place and lane and the piece of vacant ground there will be about a third of my beat. I think the highest number of the houses in Sandyford Place is 26, but I am not quite sure. Immediately beyond the greens, behind the houses in Sandyford Place, there is a considerable tract of vacant

C. Campbell ground forward the whole way to Kent Road. I went on duty at eight o'clock at night, and left my beat at six in the morning. I have no stated hours or number of times for being in Sandyford Place. I do not take a regular round, but just go up and down any way I choose. Some nights I may be oftener and some seldomer at a particular part of the beat. On Friday night, 4th July, I mind of being in Elderslie Street at between twenty and twenty-five minutes to eleven o'clock, and I passed down the back of Sandyford Place, between the wall of the greens and the vacant ground. I just walked slowly along the lane. I saw nothing, and heard nothing to attract my attention. I cannot say when I was there again, but I would be there within three-quarters of an hour or an hour after that.

How often would you be along that lane in the course of the night?—I am "geyen" often there, because that vacant ground is very bothersome with women (prostitutes) going about it. All the spare time I have I am to be in that vacant ground between the lane and Kent Road, and round the streets at the back there. There is a street going down in the centre of the vacant ground, and there is a paling on both sides of that street; but there is none between the rest of the vacant ground and the lane; that ground is a great resort of prostitutes. I would be taking a turn round the front of Sandyford Place every three-quarters of an hour or thereabouts; sometimes oftener, and sometimes not so often as once an hour. I might be taken away once or twice to the police office during the night; I don't remember being at the police office on that Friday night; but I might have been. I don't keep a record of going to the office with a drunk man or a prostitute; I keep a note of anything serious occurring. In the course of that night, I have no recollection of having seen or heard anything extraordinary about Sandyford Place, either behind or in front. A light in an area window, or shining through the Venetian blinds of a dining-room at eleven, or at any hour of the night, would not be anything extraordinary, and would not have attracted my attention. In many of the houses thereabouts the gas is not put out all night. I wrote a fortnight ago to my father about the letter which I posted, but I have not got any answer; I am quite confident that it was on the Saturday night that I saw the women at 17 Sandyford Place; I do not know any way of ascertaining who they could have been; I saw them come out of the house and stand on the door step for about five minutes; then they said good-bye, and the one came east along Sauchiehall Street, and the other went into the house and shut the door. It seemed to me like a servant girl showing a woman out. I had a "grip" of the handle of No. 18, examining the door; they opened the door of No. 17, and when they saw me at No. 18 they stood for a minute; then they began speaking, but I could not hear what they said. I went down, and was speaking to a "chap" outside the railings when they parted; the one that came along Sauchiehall Street was a very young girl, low set, and "geyen" stout made; the other was a taller girl, and "geyen" rather slender, and older; the one that went along Sauchiehall Street had a bonnet on; the other had no bonnet, but a white mutch,

with long white ties over her shoulders, a light gown, and a white apron. It would be about half-past eight, or twenty minutes to nine when I saw them; it was broad daylight. The woman who went along Sauchiehall Street had an umbrella in her hand; I did not notice that she was carrying anything else. I heard of the murder on the Monday night. I am quite sure that it was not on the Friday night, or the Monday night that I saw the women; it was on the Saturday. I did not know that the family in No. 17 were at the coast. There was nothing remarkable in seeing the women there, and it was only the circumstance of the murder occurring there which led me to think of it. It was on the Monday night, after I went to my beat, that I minded that the two came out on the Saturday night. I do not know Mrs. M'Lachlan; I never saw her till I saw her in the Circuit Court; I never heard of her before she was apprehended for the murder. C. Campbell

By Mr. Gemmel—I cannot say how often I was at No. 18 Sandyford Place on the night in question. We have no regular hour for visiting shut-up houses, otherwise thieves would soon know it.

Our instructions are quite general, to try the doors of these houses.

(*Before Mr. Young.*)

Alexander Cameron, examined. A. Cameron

By Mr. Dixon—I am a day policeman in Sandyford Place. I know the lane door of No. 17 perfectly. I never saw that door open during the day unless some one was going out or in; there is no knocker or bell on it.

I was on that beat last June and July. I have seen the servant going out and in at that door several times; I was in myself about a month before the murder. Some boys had broken a pane of glass in the washing-house, and they went over the wall for the ball. I knew that the door was always kept locked. It is our duty, if we see any of these doors insecure, to warn the parties to keep them locked. I was on duty there on Saturday, 5th July; I went on duty at eight o'clock a.m.

You know the road that a woman would naturally take who wanted to go the shortest and the quietest way from 17 Sandyford Place to the prisoner's house at the Broomielaw; were you upon that route early that morning?—I was not at Sandyford Place that morning till after nine o'clock. It was my turn to stand at the head of North Street from eight till half-past nine o'clock, the time my neighbour was at his breakfast. The night watchmen go off duty at six o'clock, and one-half of the day force comes on month about at six, and they take two beats from six to eight, when the other half come out; and those who came out at six go home to breakfast. Between eight and nine o'clock that morning I was the only policeman on that beat, and my station was at the head of North Street, at Charing Cross, where I remained till nine o'clock. Between eight and nine there was no policeman to see anybody leaving 17 Sandyford Place, either

A. Cameron behind or in front, unless any of those who changed at eight o'clock were passing down that way to breakfast. There could be no more favourable hour for leaving the house unobserved by the police than between eight and nine in the morning, owing to that beat being one of the double beats.

R. Jeffrey ROBERT JEFFREY, Detective in Western Police Force, Glasgow (a Witness examined at the Trial).

By Mr. DIXON—Will you describe the state of the bed in the room where the body was found? Was there much blood on the mattress?—Yes, a good deal, about half the breadth of the crown of my hat, on the edge of the bed; and there was a piece more over where the bolsters had been lying; it was like where a person's shoulder would lie, a small bit down from the pillow.

That was all the blood upon the mattress?—Yes; only the front, so far as I saw. I found the sheet; it was not on the bed; it was rolled up on a shelf under the basin-stand, the blood all concealed in the inside of it, and only the white part of it seen.

What was the state of it as regards blood?—It was all besmeared with blood from one end to another.

Saturated with blood?—Yes. It was very bloody; but some of it was white, and it was so placed that the white was exhibited under the basin-stand. There had been blood on the blankets, but they had been washed.

Do you think the sheet could have got so much blood on it while it was in the bed, looking at the state of the bed?—I did not spread out the sheet exactly to see it all.

By Mr. YOUNG—I went to the house first at half-past five or twenty minutes to six on the Monday evening after the murder. Campbell, the detective, and I were the first policemen on the spot. I went downstairs with Dr. Watson and Mr. Fleming. Police constable Alexander Cameron was in the house when I went in. Campbell and I, and also Cameron, remained in the house for about two hours, searching for things with blood on them, and making observations. Then we removed what we had got to the police office, leaving Cameron in the house. Campbell and I were instantly satisfied that there had been a murder, and we thought on what would be the most probable occasion for the murder, whether it was for plunder; and on looking into the servant's chest we saw some articles like neckties and wrappers, and things of that kind, and either I suggested to Campbell or Campbell suggested to me, that she must have had better clothes, and we supposed there was something away, but we could not tell till Mr. Fleming told us. The chest was open, the lid down, but not fastened; the lock appeared to have been broken prior to that time. My impression was that it was a chest which would not lock. It contained trimmings and bits of gowns and ribbons, all smeared with blood here and there, as if some bloody hand had been working among them. We took away the principal part of these things.

Appendix III.

Did it not occur to you to ask if any of the plate in the house was missing?—Mr. Fleming said he did not know. R. Jeffrey

Did he say that in answer to a question by you?—In searching for this stuff we took no thought of silverplate being away till Mr. M'Call came up, the second time we went up on the back of nine o'clock. Mr. M'Call then made full inquiry of Mr. Fleming. I asked Mr. John Fleming, senior, if there was anything amissing, and he said he could not tell. That was a good while after we went. There was a Mr. Chrystal there at the time, and another tall gentleman.

Where did you ask him that?—I think it was in the back parlour. He showed us some silverplate lying in the sideboard in the dining-room.

At that time?—I am not sure whether it was that night or next day. We were searching for the silverplate, to see if there was any missing, and I think Mr. Fleming said he could not say rightly till he saw how much was down the water, as he had the two houses.

Did he tell you that any was amissing?—I think that night he said there was some silverplate missing that he had been using prior to going down the water on the Friday. I think it was to Mr. M'Call that he said that.

When he showed you into the sideboard, did he show you a silver tea-set that had been left there?—Yes, there was a good deal of valuable stuff lying there. I did not take it out to see, but there was a great deal of silverplate there. He just opened the door and said, "They might have gotten away that if they had been wanting plunder." I think that was on the Monday night. He just opened the wing of the sideboard. This was after he had told us that the spoons which were in use in the house had been taken away.

Was there anything to account for a thief taking the spoons and leaving the other silver which you saw?—That was the mystery that we could not see to the bottom of; I have not seen to the bottom of it yet.

Was it the subject of conversation among you in the house that night?—Yes.

Who all joined in it?—Campbell and I, John Fleming, senior, and John Fleming, junior; Mr. Chrystal spoke to us about it, and another tall, grey-whiskered gentleman. We also spoke about it to Dr. Fleming. The conclusion that Campbell and I came to was that an old thief, a regular thief, would have taken away more than was taken. One not practised in thieving might leave something behind.

Did you not tell about that other plate to the Sheriff when you were precognosced by him?—No, I never was asked. The Fiscal was there himself, and the Sheriff was there, and I suppose they saw it.

But the fact is, you did not communicate it to the Sheriff or the Procurator-fiscal?—No. The superintendent of the criminal department was also there.

Did you see any other portable articles of value about the house which you would have expected a thief to take?—There was the frame of a cruet stand below the table in the bedroom where the body was found. I think it was a plated article. Leaving a plated article

R. Jeffrey

behind is like an old thief, or a person who knew the value of it. I saw the cloths and the stuff for cleaning silver in a drawer in the kitchen. I supposed the frame of the cruet stand had been cleaned in the kitchen and carried ben to the bedroom. It seemed to have been recently cleaned; it was very pure. It was on a small bit of carpet, under the table in the bedroom.

Did you make any inquiries that night as to when the spoons had been missed?—They were not missed till we asked about them; they had left them when they took their meals on the Friday. Mr. Fleming did not look to see if anything was missing till we asked him to do it. We looked round, and all we found in the house was one small silver teaspoon in the kitchen; there were two pewter spoons on the table in the kitchen, I think. The silver teaspoon was on the shelf, in a teacup or saucer. We did not observe it till next day. I think the two pewter spoons were ordinary kitchen tablespoons. They were washed, but not rubbed up; they had been cleaned since they were used; they were on the dresser.

Had they the appearance of being put away, to be ready for use, or were they just thrown down?—Just thrown down, apparently. I think they were lying very far back. There was a teapot in the kitchen; old Mr. Fleming made tea in it at the kitchen fire when I was there; there was a good number of knives and forks in the kitchen.

S. Adams

Sarah Adams (a Witness examined at the Trial).

By Mr. Dixon—I was with Mrs. M'Lachlan for two years and ten months. I was in the habit of pawning a good many articles for her. Everything was pawned in the name of Frazer. My mother or I always went to the pawn. Mrs. M'Lachlan had sailors, who boarded with her when they came home from a voyage. They pretty often went away without paying her, and left clothes and other articles with her. Alick Kennedy, her cousin, left things behind; and George Monro and John Frazer.

They left the things with her to keep them till they came back; not to pawn. They were left as a kind of pledge for what they had been unable to pay. She raised money on them by pawning them. She did not give them the pawn tickets. She lifted the articles before they came home.

She had some things which belonged to her brother. He never knew that his things went to the pawn. He was in debt to her. She was ill for a long time while I was with her. She was very delicate. The doctor was pretty constant in his attendance. She required a person to come about the house to assist her. When her sister Anne was not there she had my mother always to assist her.

The doctor was often attending her. She was very weak—not able to be out of her bed sometimes. She was in very poor health most of the time I was there. She got medicine pretty often from the doctor. She never spoke to me of the expense of the doctor. When the doctor ordered medicine she sent me for it, and I got it from the doctor

and paid for it. She gave me the money. She sometimes pawned things to get money to pay for her medicine. Her bad health kept her very poor. I left her five or six weeks before she was apprehended. She was not confined to bed shortly before I left. A while before I left she was three days in bed. She was not very strong when I left. At her best she was in feeble health. The doctor always came to her when she was ill—not when she kept her bed for a day or half a day, but when she was very ill. She was frequently so ill as to keep her bed for a day without the doctor being sent for. I could not say how long before I left the doctor was there last, but I mind of him being there. It was Dr. Buchanan, at the head of Oswald Street. **S. Adams**

Was she a good-tempered woman?—Yes.

Was she kind to you?—Yes; she never struck me; but she has "flyted" on me; she "flyted" on me more than anybody else in the house. When I went a message, and did not get back quick, I used to get a "flyting."

But she was not a cross, ill-natured woman, was she?—No; sometimes she was.

But she never lifted her hand?—No, not to me. I cannot say she was very good-tempered.

MARY BLACK or ADAMS (a Witness examined at the Trial). **M. Adams**

By Mr. STRACHAN—I attended on Mrs. M'Lachlan when she was confined to bed, when her sister was not there. She paid me 7s. a week, and sometimes more, as her income afforded it. Sometimes I have got 8s. a week. I attended her night and day several times for a week and a fortnight at a time. I never attended her at the Broomielaw. Her sister was with her part of the time that she lived at the Broomielaw.

Was she a bad-tempered woman?—She had no reason to try her temper with me. I was in the habit of doing all her washing for her. She was not able to do that. She might be able to wash a few things for herself, but not a day's washing. I have got 1s. a day, and sometimes 1s. 6d. a day from her. I never was a night with her while she was in the Broomielaw, but I have done washing and cleaning for her during the day. She was a weakly woman, and had often trouble. She complained to me often while in Elliot Street and Stobcross Street of the expense of the doctor and medicine. She was not extravagant in any other thing, unless she might be in dress, but not for a time back. In living she was very moderate. She was a very temperate woman. She did not drink, unless by the doctor's orders. She would take one glass of spirits, but she would take no more. She could not have lived more economically than she did. She had sometimes sailors boarding with her—two or three at a time, and I have heard her say that they had gone away without paying her. She has been compelled to pawn the clothes which they had left with her. I very often pawned them for her when the little girl was not at home, but it was generally the little girl. When I

M. Adams did so I knew her necessities. She has had to pawn them different times in order to pay me. They were never pawned to raise money for intemperance or extravagance, but to pay for medicine, or the doctor, or me, or for what the house needed. Her income was not very great. I did not live near her at the Broomielaw. I lived at Holm Street. I never saw old Mr. Fleming in my life till I saw him in the County Buildings. I have heard Mrs. M'Lachlan occasionally speak of having been a servant in his family.

A. M'Intosh ANNE M'INTOSH (Sister of the prisoner), examined by Mr. Young.

I am twenty-four years of age. My sister was twenty-six last July. I lived with her eight months in her house at the Broomielaw. She was in very bad health during that time. She never had been well since her child was born. I left her poorly in November last when I went to Edinburgh, and she lay at that time for six weeks. She has been always troubled with palpitation. She has been in bed for months before that. I could not lift her, and she had to sit up so that one side of the bed could be made at a time. Dr. Buchanan told me about a year ago that if I did not come and attend to her she would drop some day suddenly on the floor. During the eight months I lived with her I was always in the house. Old Mr. Fleming called twice on her at the Broomielaw in the eight months I was there. I went to Edinburgh to service on the 10th November last, and the eight months I was there were eight months immediately before that. On one occasion Jessie M'Pherson had been down, and invited Mr. and Mrs. M'Lachlan up. They went, and old Mr. Fleming was in the kitchen. They had some whisky and porter there, and my brother-in-law and my sister invited old Mr. Fleming down to tea on a Friday in August of last year. It would be about six o'clock when Mr. Fleming came. My brother-in-law was at home. My sister took him (Mr. F.) up to the parlour, and told me to get the tea there. He said Jessie could not come, and he had not time to wait, but they would come some other time. My sister gave him a dram, and he stayed about an hour at the window, speaking about a house his son had bought. He came again about a week before the Glasgow preachings in October. My sister was not in, and I took him into the kitchen. I said, "My sister is not in." He said, "Never mind, you are from the Highlands, and I just called in passing. Don't I look well?" he said. I said "Yes." Then he said, "Tell Jessie John is coming up with the family, and I cannot get out so often now, but I will give her a look in soon again." I let him out. I did not tell him to sit down, as my sister was not in. Jessie M'Pherson was not from Inverness. The first time I saw her was when my sister was a servant to Mr. Fleming. She was at my sister's house almost every second Sunday; and before she opened the shop she lived with my sister a month as a friend. It will be three years last May since she opened the shop. I was not living in the house at the time, but I was a servant in Glasgow at the time, and often saw her there. She got out every second Sunday, and she

would come through the week when she was out. I met her on the 9th November last. I was going past Sandyford Place, and she called after me. I told her I was thinking of going to a situation, and she said I was foolish, as my sister was not strong. I asked why she did not come down last Sabbath, and she said the old man had got up in a rage when she was coming out, and told her if she was to go out she must go in the forenoon, and not in the afternoon. She said, "The old devil!—my heart is near broken with him." She told me that before he would let her out to the greengrocer's for a stock of cabbage he went himself, and she pointed to the shop where he bought the cabbage, at the corner of the street. That was last November. I have seen old Mr. Fleming six times in my sister's house. Sometimes he used to sit more than an hour, and sometimes two hours. I have seen him three times in one week. He came the first time to get me to go as housemaid to his son, but I would not go. Mrs. Matheson, the washerwoman, saw him there. He came on a Sunday evening with Jessie M'Pherson, and got tea and a dram. My oldest sister was here from Inverness at the time, and waited in that night at tea. Her name is Mrs. Jack. She is alive. She put that in the papers when my sister was first apprehended. Her husband is a sea captain. Sarah Adams also saw Mr. Fleming in my sister's house. **A. M'Intosh**

Sarah Adams (recalled), examined by Mr. Young. **S. Adams**

I saw old Mr. Fleming at Mrs. M'Lachlan's once, shortly after she went to the house at the Broomielaw. It is full two years since she went there; it was in the forenoon that I saw him there. I could not say what time of the year it was. He came in, and asked if they were all well. She asked him if he would have any drink, and he said no; he had not time to wait. She did not give him anything, and he did not sit down. He just came between the outside door and the kitchen door. I heard all that was said. I had the baby in my arms. The old man did not speak to it. He asked if they were all well; and she said, "Yes, pretty well." She asked if he would go ben to the big room; he said, "No, he had no time, for the boat was going away, and he was going with it." He then went away. Mrs. M'Lachlan called him "grandpa"; they seemed quite intimate and friendly, like familiar acquaintances. When he went out she said, "That is grandpa." I said, "Who is grandpa?" and she said, "Old Mr. Fleming." When he came in first she said to him, "Here is a fine day, grandpa." She said nothing about seeing him again when he came back. The conversation took place in the lobby; she was at the kitchen door, and he was in the lobby. I was over at the kitchen table, taking care of the child; I did not notice whether they shook hands or not.

By Mr. Gemmel—That was the only occasion, during all the time that I was in Mrs. M'Lachlan's service, that I saw the old man.

By Mr. Young—She was in the habit of going to his house to see Jessie. I understood that from herself; she went just any day that she liked, generally at night. She went sometimes when the family

S. Adams were at the coast, and occasionally when they were in their beds. Her common time of going was nine o'clock and half-past nine; I never knew her go later than half-past nine. She generally returned about a quarter-past ten, sometimes a quarter to eleven, but never after eleven. It was from herself I heard that she had been there. Her going there was very common; I understood it was just to see Jessie; they were great friends. Jessie came often to her house; she was there every Sabbath that it was her day out, and stayed a good part of the day; she had dinner there, and tea before she went away, often. I was not in the house when she lived with Mrs. M'Lachlan.

E. Halliday ELIZABETH HALLIDAY.

By Mr. STRACHAN—I was a servant in Mr. Fleming's house for eighteen months. I left two years ago. Jessie M'Pherson was also a servant there part of the time, for about four, or, at the most, six months.

I went at Martinmas. She was there then, and she left shortly before the following Whitsunday on account of bad health. I heard at the time that she had gone to live with Mrs. M'Lachlan a month at any rate before the Whitsunday term.

During the time I was a servant in Mr. Fleming's house, old Mr. Fleming went a good deal about the kitchen, especially when the family were not at home. They generally went down the water on the Fridays and came up on the Mondays. The old man generally remained in town. He was very inquisitive; looking after the servants, asking what we were doing, and what we were going to do with whatever he would see us doing; and if the door bell rang he would always inquire who was there. If any person came in, he would inquire who it was that had come in to see the servants. He would come down to see, or inquire afterwards who it was. He was mostly in the kitchen when the family were not at home. There was a rule for the servants that no followers were allowed, unless it was a particular friend.

The family were in Sandyford Place when I was in their service. I could not state the name of the party who supplied the milk. I could not say if it was Paton. It was people who kept a very large dairy up about the canal somewhere. It was brought in a cart morning and afternoon. In the morning it generally came about half-past seven, or between that and eight o'clock. It was not regular. It was sometimes a little after eight. Commonly it came about twenty minutes or a quarter to eight. When it was before that it was early; and when it was after that it was late. The old man generally got his porridge in the morning about eight o'clock, as soon as the milk came. They were generally ready by the time the milk came, and they were taken up when it came. I have seen him take the porridge without milk when the milk was late, and he had to go away early on a Monday morning, but not at any other time. He got the new milk which came in the morning. His porridge was taken to him in bed, unless he happened to be up. He generally rose about half-

past eight, or between that and nine, just after he got his porridge. He did not get tea when he rose; he went out after getting his porridge, and came back generally about mid-day and had lunch; sometimes coffee. The porridge was all the breakfast he had. I have been alone with him in the house from Friday to Monday three or four times. On these occasions he generally took his meals in the kitchen, and then he just used the spoons that were downstairs—pewter spoons. He did not object to use them. He generally went to bed about nine o'clock, I think. When I had visitors in, he never spoke to them further than to see who they were. When I was alone he sat and chatted familiarly. Three weeks before Jessie M'Pherson left prior to Whitsunday three years ago, she was down the water, and I went down; she and I slept together there. She spoke of the old man to me. She said he was a nasty body, or a dirty body. That was the only thing I ever heard her say of him. I thought that meant something that had happened that I did not hear or see. I thought it meant that he had been behaving indecently to her. I did not ask what she meant, and she did not tell me. She did not say anything about his having done anything to her. She did not say that he came to her room or wanted to marry her. She was irritated at the time she spoke of him; she was a sort of angry at him. I could not say what irritated her. He was down at Dunoon at the time. He had been sitting in the kitchen, and she said he was always in the way, and that he was a nasty old body, or something like that. She passed the remark two or three times. I did not ask anything more about it. There is nothing that I am ashamed to tell; I have nothing more to tell. E. Halliday

Did she give you to understand that he had made any improper attempts upon her virtue?—Well, she did not say so.

Did she give you to understand that?—Well, I thought that.

What made you think that?—The way she spoke about it.

Did she give you to understand that it was a recent occurrence?—Yes.

At Dunoon, or Glasgow?—It would be at Dunoon; she lived at Dunoon; and he was just down occasionally. There was nobody but herself down when I went; I cannot say if he had been living in the house alone with her shortly before; sometimes he went down and stayed a day or two in the end of the week, when the rest of the family were not down, and when she was the only servant in the house. I don't think he had been down for a fortnight before that. I understood that she was referring to some occurrence that had taken place at Dunoon, when he and she were in the house alone together. I did not ask her more about it.

Did you understand that he had come to bed to her?—No; I did not know. She could use pretty irritating language; she was plainly disgusted with his attentions at these times.

I know that she went back to service there. That surprised me after the way she spoke of the old man. I did not see her after she went back. I never saw the old man in a passion. I never saw anything happen to provoke him. He was not to say a strong man,

E. Halliday

but he was very active for his age. He could walk very quick. He saw well. He used spectacles occasionally. I have seen him read with them on, and I have seen him just as often without them. I never saw him paying attentions to Jessie or to any other servant. I never saw him do anything improper. I never heard him use indecent language.

The COMMISSIONER—It was not indecent language that you understood Jessie to be referring to, but impropriety of conduct towards herself?—Yes, I understood that. I know that all the winter the gardener lived at the house at Dunoon; he got his meals in the house, but he slept about the stables outside.

Mrs. M. M'Kinnon

Mrs. MARY M'PHERSON or M'KINNON, residing in Greenock.

By Mr. DIXON—I am foster sister of Jessie M'Pherson. I was brought up along with her. I know Mrs. M'Lachlan too. They were always on good terms. I never heard a word between them. I saw Jessie four weeks before her death. On that occasion she spoke about old Mr. Fleming being so inquisitive that no person could call on her, and the door bell could not ring but he bood to know and see who it was. She said her heart was broken with him; she styled him just an old "deevil," and said if she had that six months put in she would not put in another. She said that if her master was going down the water and telling her to get anything in, he would say, "Weel, Jess, what's that he's saying to you now?" and the like of that. She said she was perfectly tormented with him. She disliked the old man, but she gave no other reasons than his inquiring as to who came about the house. I understood from her that he had a custom of going a great deal about the kitchen. The last time I saw her she did not name that, but I knew it was his custom. From the first time she went to the house he was always about the kitchen. She did not like that, but she knew it was a custom of his, and being the master's father, she did not check him. Last time I saw her she said Mrs. M'Lachlan and her husband called one night on her, and not to give him satisfaction who it was, she took them into her own room; but he came in, and said, "O! Jessie, is this you?" And she said, "Yes, who did you think it was?" and he sat them out on that occasion. I knew that he was in the habit of going about the shop that Jessie had. I have met him there twice myself. I was going in one day as he was going out, and she said she did not know what that old wretch was trailing down there about. I looked upon it as friendship, but I did not get much of her mind. I was not much beside her.

By Mr. GEMMEL—Last time I saw her she said she hadna' spent her wages, and that she was going to buy a filled plaid. She asked when I was going home. I said, "On Saturday," and she said she would ask out on the Friday night to spend her wages, but it was so dreadful wet that she never came. I was to meet her in Mrs. Hamilton's fish shop. Her wages, I think, were £7 in the half-year, but I am not quite sure.

By Mr. DIXON—I believe she had incurred debts in connection with the shop. She had trusted customers £75 in eleven months; the debts were sold to a writer, who was to pay himself and the debts. She said he was to get £10 and to draw in the money. Mrs. M. M'Kinnon

By Mr. YOUNG—The servants' term is 15th May, and she might not get her wages for eight days or a fortnight, but she told me four weeks before the murder that she had her wages, and she gave my little girl half a sovereign, but that was not off her wages, for she had kept it for me about three months, and she had it rolled in a bit of paper very carefully. Her father is alive, and I think he lives about Stirling. He was pointed out to me ten years ago as her father. My mother nursed her; she was about the house two or three years before I was born. She had no sister or half-sister, but she had a half-brother. I saw that old Mr. Fleming, in his evidence at the trial, said, "I thought she had got somebody in to stay with her. There was a woman she ca'd a sister o' hers. She bood to be in her room." I took that as meaning me. I did not know any other person that it could refer to. I never in my life stayed all night with Jessie at Sandyford Place. Jeannie Darnley, from Falkirk, did, but that was in summer, in May or some of these months. She waited eight days, and Miss Fleming and the whole of them saw her. The old man had no reason in the world to say that I ever stayed all night with her. She called me her sister; and I am the only person she called her sister. I have sisters, but there have been none of them near her for years, and they never were in Sandyford Place. Jessie M'Pherson was a natural child, and my mother got her to nurse. It was Jessie that nursed me, and since I got married my house was her home. I was two or three times in Sandyford Place house. I have not seen old Mr. Fleming there since before she took up the shop. The last time she was in service there I did not see him, but the first time I did; upon one occasion. I cannot say whether he knew that she called me her sister, but Miss Fleming and the whole of them knew it. My house in Greenock was her home, and she stayed a month with me when she came from England. Mr. Fleming knew that she came to see me one Sunday, for he said, "If you lose the boat at night, mind, Jess, there's nae train." He had no reason in the world to suppose that I was sleeping with her on the night she was murdered. It is very strange that he should say so. He knows that I am married, and live in Greenock. He had no reason at all to suppose that I was with her that night, and he never saw me there except once.

JAMES M'LACHLAN, Husband of the prisoner. J. M'Lachlan

Examined by Mr. YOUNG—I boarded myself on board the steamer in which I was employed. I provided my own board. It was sent me by my wife when she was in good health, and when she was not the money was given to me, and I ordered my own things, and they were sent down to the boat to me. I was allowed 10s. a week to provide my food; I kept that for my own food, and I generally took 2s. for

J. M'Lachlan pocket-money. My wife got the balance, viz., 18s. a week, out of which she had to keep up the house, and to pay all my clothes, and everything else. She was very delicate. Ever since the birth of her child it has been only at intervals that she could do her own turn. For a long period after the child was born she could do nothing at all about the house. We often consulted about her sickness, and she said the doctors and medicine were very expensive. I paid several accounts for doctors myself off my wages before giving them to her. I had no saved money. I had the utmost confidence in her. I never saw anything to give me reason to doubt her. We were married about four years ago. She had a child scarcely a year after our marriage, and she has never had another. She lay for about three months after the birth of the child with inflammation in both breasts. I generally spent two days and three nights a week in my own house. The others I was at sea. That is giving an average, for I have seen us come in on a Friday and not sail before Tuesday; and I have seen us come in one day and sail next morning. I went to sea on the Thursday before the murder, and did not return till after midnight of the Wednesday or Thursday following. I then went home.

Mrs. M. Smith Mrs. Mary Fullerton or Smith (a Witness examined at the Trial).

By Mr. Wilson—I knew Mrs. M'Lachlan perfectly well. I knew Jessie M'Pherson too. I was never a day out of her shop for a twelvemonth, and I saw Mrs. M'Lachlan very often there. She was a sister to her almost, they were that intimate. They were very affectionate, and I have seen her give Mrs. M'Lachlan things that she required to buy again immediately for herself. When my husband wanted her to summons Mrs. M'Lachlan for money she was due her, she said never to heed, as she had been at great expense on account of illness, and that she would pay when she got better. I knew that she was very ill after the birth of her child. Jessie M'Pherson has told me that some of Mrs. M'Lachlan's seafaring lodgers went to sea without paying her; that was the reason why Jessie M'Pherson took pity on her, and would not summon her. My husband made up her books in the shop. I saw Jessie M'Pherson on 28th June, and she was to come to my house on 6th July. When I met her on 28th June I was with my husband. She was looking very ill; I never saw her looking so melancholy. I said, "Jess, what's wrong?" She said, "I'm no' weel." I was angry at her for not coming to call on me. but she said, "You don't know how I am situated; I have a miserable life of it." I had seen old Fleming twenty times in her shop, and when I asked her what he was doing there, she said she was tormented with him, and could not get quit of him; that he made excuses to come down with newspapers to her to make up the sugar and tea, but that she could not be bothered with him. When I met her on 28th June she was going to the dyer's with a piece of silk, and when I asked what was wrong with her, she said, "I live a miserable life; he is just an old wretch and an old deevil." She said that with

emphasis before my husband. I said, "Tell me the right way of the story; what is it he has done to you?" She said, "I have something to tell you, but I cannot tell you just now before your husband"; she said she would come and tell me on the next Sabbath day, 6th July, but she was dead before then. I had not seen her for two years and two months, since she went to Gray Street. Mrs. M. Smith

Jessie M'Pherson was a tall, wiry woman?—I saw her once put down a policeman in fun. He said, "I think I will have a kiss," and she said, "Try me, Sam," and I saw her put him down on the floor. She was gey strong when she could manage him. She was very strong. He was the policeman on that beat. She was a very stout-boned woman.

Did she tell you, while in Gray Street, that old Fleming wanted to marry her?—I have heard her say that many a time, but we laughed at it. She was not serious, but we understood that he was serious. It was not a joke his wanting to marry her, but I made a joke of it that he was courting her. It did not surprise me when she told me that he wanted to marry her, because I had seen him so often there I thought his conduct in going about the shop was not unlike that; she seemed to feel disgusted towards him; that was her expression, both in the shop and when I met her that day. I thought there was something decidedly wrong, from the way she spoke that day, in such a serious kind of tone. I wanted to know what made her so miserable then by what she was before. She made the remark that she was well enough when the family were at home, and that her misery began when she was alone with him. She said he would allow nobody to come in or go out of the house, and that he could not bide to see her out of his sight. She said she had so much work that she would be glad of a hand from me. I could not say if she had ever anybody in at night to sleep with her. I understood she slept in the house alone. I never heard anything else.

By Mr. Gemmel—I know that she had a child at one time; she told me so; and she said her lad was in Australia. I could not say her age. She told me she was born in the parish of Liberton, near Edinburgh.

Mrs. Helen Vance or Mitchell, examined. Mrs. H. Mitchell

By Mr. Gemmel—On the Monday after the murder old Mr. Fleming called on me for the rent I owed him; I owed him £3. I had not exactly been put out of the house by him, but I had sub-let the house, and the people who had it were owing the money to me; he said I could not get the house again. When he called on the Monday I said the people had not paid me; he said he would be up again that night or on Tuesday morning. This was before the murder had come out. He did not call till Wednesday, at half-past ten. On the Monday he was very raised like. After he had gone out I said, "Mr. Fleming is very raised like to-day, and has on his best clothes." He just walked into the house and stood with his hands stretched out, and his hat raised a little from his forehead.

Mrs. H. Mitchell

He did not appear drunk; there was nothing drunk-like about him. He did not sit down; it was a hurried visit. He was not in his usual state; he came in hurriedly and went away hurriedly.

Was this raised appearance before or after you had told him you had no rent to give him?—It was just when he came in at the door.

Was he worse or better when you said you had no rent to give him?—He said nothing but that he would come back that night or Tuesday morning.

Mr. YOUNG—Do you think it would ever have struck you at all that there was anything peculiar about him if you had not afterwards heard of the murder?—I thought he was very much agitated; I thought something must have occurred to agitate him.

Mrs. E. Marshall

Mrs. ELIZABETH NARNONI or MARSHALL, wife of and residing with Richard Marshall, Bottler, 217 Elliot Street, examined.

By Mr. WILSON—I was a neighbour of Mrs. M'Lachlan when she lived in Elliot Street. I was on friendly terms with her; I nursed her child when she was confined to bed. When she was well, seldom a week passed without my seeing her. She was a very mild, gentle-tempered, and kind woman; she was delicate. I never saw any signs of thriftlessness or dissipation about her; she was not given to drink. It must have been her bad health that threw her behind in the world. I have been in her house in the Broomielaw three or four times; she was in bad health there, and in Stobcross Street, too, I believe, and I went occasionally to see how she was. She had some seafaring lodgers in her house at the Broomielaw; she told me about two of them who were due her money; that was before last May.

Mrs. E. Clotworthy

Mrs. EMILY CUMMING or CLOTWORTHY, wife of Thomas Clotworthy, 182 Broomielaw, examined.

By Mr. WILSON—I have lived for eighteen months in the same land as Mrs. M'Lachlan, in the Broomielaw; she and I were in the habit of speaking on the stair as neighbours. I considered her an exceedingly quiet, gentle woman, and very delicate. As far as I could see, she was a woman of very orderly habits; my children and she had more acquaintance than I had with her. It was her speaking to my children that drew me towards her; she spoke kindly to them. Passing up or down, I would ask her servant how her health was. I thought she was in a decline; that was what made me feel so much for her. I heard that she kept seafaring lodgers. I did not know that from hearing any noise in her house, but my children told me that she kept lodgers; she was kind to the children. On one occasion they had got on a swing, and she said to them not to do it, and to tell me that I should not allow them to do it. I had had a severe illness, and so retiring was she that she did not come herself, but sent the servant to inquire for me. One day a melancholy accident happened to one of my children from falling into a sawpit, and all the neigh-

bours flocked into my house, except her, but she sent up to inquire constantly. She was evidently a woman who took a kindly interest in children. She seemed a feeling, kind woman, and she was particularly quiet, contrasting favourably with the other neighbours, for they were anything but quiet. I did not associate with them at all; I saw less of her during the last twelve months, when I took ill, but I met her frequently on the stair. My husband is a mattress manufacturer. I formed an extremely favourable opinion of Mrs. M'Lachlan. Mrs. E. Clotworthy

DANIEL PATON, Clothes Dealer, 92 Bridgegate. D. Paton

Mr. YOUNG—Did you buy a brown coat from old Mr. Fleming?—Not a brown coat; it was more of a grey. I bought it a fortnight before I heard of the murder; the Saturday fortnight. I have bought different coats from him, but none since. I bought a pair of trousers from him at the same time.

Have you bought anything from him since?—No; I never saw him from the Monday that we heard of the murder. He was round that day lifting his rents. It was the Saturday fortnight before that that I last bought a coat from him.

Mr. WILSON—Was that coat brown?—It was grey, but it might be brownish. It was more of a grey.

There might be brown spots on it?—The coat might change from age or the weather.

From the size of the coat and trousers, could you judge whether they were old Mr. Fleming's or his son's?—I suspected the clothes to be John's; not the old man's. They were too large for the old man. I have bought things from him different times that were not his own. He was in the habit of selling his son's clothes.

[Witness's former precognition read, see p. 310.]

By Mr. GEMMEL—I saw him on Monday, 7th July, collecting rents. On that day he was wearing a black coat—a darkish coat. I cannot say if it was the black coat that he usually went about with.

Mr. YOUNG—Did you remark it to be a new coat?—I saw nothing particular about the coat.

By Mr. GEMMEL—If he had had on a new coat I think I would have noticed it. I saw nothing unusual about his manner. I saw nothing raised about him.

By Mr. YOUNG—He sold me a brownish-coloured coat, a kind of top coat; it might be two years ago, or a good while ago, at any rate. [That portion of old Mr. Fleming's evidence, as to brown coat sold to witness read (see p. 36 of Report of Trial).] It would be a long time before that he sold me a brown coat. I mind of buying one from him, but it will be two or three years ago. It was a morning coat, with side pockets. The last coat he was wearing was a big, heavy, blue beaver coat, with pockets in it. That was the coat he was wearing about the time of the murder; it was made longer than a shooting jacket, and had big pockets at the sides. I

D. Paton

am quite sure it was blue. I remarked that it was a good coat. I might see it on a week or so before the murder. I could not say he had it on upon the Monday after the murder; but he wore it about that time, and sometimes he wore a black, long-tailed dress on other days. I could not say what kind of waistcoat he wore; his trousers were sometimes a kind of steel-grey and at other times black.

By Mr. WILSON—Old Mr. Fleming's statement about the brown coat is not true; I said it was not true when I read it, immediately after the trial.

By Mr. YOUNG—I am very sure he was not wearing a brown coat about the time that the murder was committed.

E. Mitchell ELIZABETH MITCHELL, living with her mother at 10 Albion Street, and between 17 and 18 years old, examined.

By Mr. WILSON—On the Monday after the murder I was at home with my mother; between ten and eleven o'clock in the forenoon old Mr. Fleming called for payment of bygone rent.

Did his appearance at the time excite any remark?—Yes, he seemed very anxious to get it; he had on his good black clothes, not the clothes he wore for ordinary; his usual clothes were black, but very brown with the wear. After he went away my mother remarked to me that he had his best clothes on, and she wondered what would be up. I said I did not know; she said nothing about his raised state; she just said that perhaps there would be something wrong. He was very agitated, looking very flushed, more flushed than he was for ordinary, and his eyes were staring; they were fixed, not restless; he never sat down, but stood with his back to the dresser, quite agitated-like; my mother did not excite him by any remark she made.

By Mr. GEMMEL—He has sometimes a staring eye, but not so much as he had that day. My mother was put out of the house which she had taken by the old man, at last term; she was not living in the house; she had sub-let it, but as she could not pay the rent he said she could not be longer tenant; my mother did not want to give it up, but he refused to let her stay.

By Mr. WILSON—There was no bad feeling between my mother and him.

By Mr. GEMMEL—He usually wore a black coat, very brown with the wear; a long-tailed coat; it was glazed and greasy-looking about the sleeves.

(*Before the Sheriff*, 30 *September* 1862.)

A. Dykes

AGNES DYKES, aged 35, says—

I am a greengrocer, and I reside at 145 Elderslie Street, Glasgow. I have a shop in Elderslie Street, and my house is at the back of the shop, and there is an entrance to the house from the close, No. 143, which close leads to the house occupied by Mrs. Walker. The tenement in which we live is at the corner of the lane, leading

to the back of the houses in Sandyford Place; and the close referred to is about 4 or 5 yards from the corner of the lane. I remember on the evening of Friday, the 4th of July, standing for some time on the pavement in front of the tenement, and a little way between the close mouth and the lane. Mrs. Walker was along with me, and it was at her request that I came out of my house and stood with her. It would be about half-past ten when we went out, and we continued standing in the same place till about a quarter-past eleven. Mrs. Walker said she did not feel very well, and she wanted to get the air. While so standing there, and looking down the street towards the corner of the lane, I heard like the "skliffing" of feet behind me, and on turning round I saw a woman step from the causeway on to the pavement, just opposite our close mouth, and she passed by Mrs. Walker and me, and turned into the lane. I saw the side of her face as she passed. I said to Mrs. Walker, "Whose servant is that going into the lane at this time of the night?" and Mrs. Walker replied that it was no servant at all, and, pointing to a man on the opposite side of the street, said, "You see that man, he and she will meet in the park," meaning the park adjoining the lane. The man, however, did not join her, but proceeded down the opposite side of the street. I saw said woman go a step or two down the lane, but I did not watch her farther. The woman whom I so saw was dressed in a dark bonnet, a darkish brown dress, but I did not observe whether it was flounced or plain; and I think she had a shawl over her shoulders, but I cannot be positive whether it was a shawl or a cloak. She appeared to be carrying something on her left arm, and which was concealed by her shawl or cloak. It farther appeared to me from the "skliffing" above referred to that the woman had bad shoes, or very light ones. I heard of the murder of Jessie M'Pherson upon Monday, the 7th of July, being the Monday following; and inquiry was made at me by the police as to whether I observed any person going into the said lane on the preceding Friday night. I said "No," as I did not then remember the circumstance, and it was not brought to my recollection until the beginning of the week immediately before that on which the trial of Jessie M'Intosh or M'Lachlan took place. It was then brought to my recollection by Mrs. Walker sending for me to come to her house, and asking me if I remembered of having seen a woman pass into the lane on said Friday night when I was standing along with her, and on her mentioning the remarks that had been made at the time, the circumstance was brought to my recollection. She then told me that that woman was Mrs. M'Lachlan, and that she had been out for a bottle of whisky, and was on her way back to Fleming's house when she passed us. She said her husband had informed her of this, and that he had got the information from Mrs. M'Lachlan's agents. Upon the Saturday preceding the trial I was, by the instructions of the Fiscal, taken to the North Prison of Glasgow, and there shown Jessie M'Intosh or M'Lachlan. I then thought, and still think, that she is the woman referred to, but I would not like to swear that she is. I recognised her by her figure, and the look I got of the side

A. Dykes

A. Dykes of her face. It was after eleven o'clock when said woman passed us, and I think it would be about five minutes or a little more past that hour. I did not see that or any other woman come out of the lane that night, and I am positive that I could not have missed seeing any woman come out of the lane while we were standing there, if such had occurred.

Declares further, Jessie M'Intosh or M'Lachlan is an entire stranger to me.

I knew the deceased Jessie M'Pherson well, and she was in the habit of making purchases in my shop while in Mr. Fleming's service. The last time I saw her was on the evening of the Friday referred to, and she was in my shop between six and seven o'clock that night. She then purchased some washing powder. She was then in perfect health, to all appearance. I did not observe the smell of liquor upon her. I never saw her the worse of liquor, nor did I ever smell liquor on her when in my shop.

I remember about a month before said Friday of Jessie M'Pherson coming to my shop, just as a person was leaving it who had been asking me for the loan of some money, and I remarked to Jessie that some people thought I was made of money. Upon this Jessie remarked that it was a bad thing to lend money, for she had lent money to two different people, and could not get it back. I remarked that it was strange that when Mr. Fleming was a writer, she could not get him to get her money for her, and she said she was afraid to speak to Mr. Fleming, as on a former occasion he had kept out of a servant's wages the money which she had lent her, and had reproved her for lending money to servants.

She further told me that one of the persons who was owing her money was an old servant of Mr. Fleming's, who had been married out of the house, and that she had lent her £4, and when she had asked it back she had got the height of abuse, but she was going to ask it again, "come what would."

She did not tell me the name of this servant, nor say anything about her, further than that she was a servant to Mr. Fleming, and had been married out of the house. Jessie M'Pherson never said anything to me about old Mr. Fleming, but I have heard her speak with respect of his son, John. She never said she was unhappy in the house, and she did not look like that.

(*Before the Sheriff*, 1 *October* 1862.)

George Paton says—

G. Paton

I am in the employment of Robert Harvey, dairyman, at Port Dundas, and I reside at 3 Barnside Buildings, in or near Glasgow; aged 25 years.

For upwards of a year I have been in the habit of supplying the people residing in Sandyford Place and the vicinity with milk. I visited them twice every lawful day, and once on Sunday. The first visit was between half-past seven and eight o'clock in the morning, and the second visit between half-past two and three o'clock

afternoon. On Sunday I only made one visit, and this was in the morning, at the hour I have mentioned. I took charge of the horse and cart, and four boys, who went with me, went to the doors of customers, and rang the bell to warn the persons that I was at the door with milk. G. Paton

I remember of Saturday morning the 5th July. I called at Mr. Fleming's house about a quarter to eight o'clock that morning. Donald M'Quarrie, one of the boys who was along with me, rang the door bell, and I saw that the door was opened from the inside, but I do not know who opened it. M'Quarrie came and told me that they wanted no milk. I asked M'Quarrie who had opened the door, and he said it was old Fleming. I called again on Saturday afternoon, and on Sunday morning, and on Monday morning, but no milk was taken by Mr. Fleming on any of these occasions. It was one of my boys who called at the door, and I never saw who opened the door, but I was told on every occasion that old Fleming had answered it, and I thought this strange. On Monday afternoon I called at Mr. Fleming's house, and old Mr. Fleming came out to the door-steps and paid me 1s. 5½d. for milk that had been received during the previous week. Mr. Fleming did not say anything to me about Jessie M'Pherson, and I asked him no question. He did not appear to be excited in any way. He did not give me any reason for not having taken milk since the Friday previous, and I did not ask him if I would call with any more milk.

The last time that I supplied milk to Fleming was on Friday morning, before Jessie's death. I did not see who opened the door that morning. I cannot say what boy rang the door bell on that morning. I supplied milk regularly at Mr. Fleming's house twice every day up till the Friday morning referred to.

I do not know the prisoner, Jessie M'Lachlan. The deceased Jessie M'Pherson never made any statement to me regarding old Mr. Fleming.

(*Before Mr. Young.*)

Monday, October 20.

James Thomson, aged 23, Hotel Keeper, Argyle Hotel, Dunoon, examined. J. Thomson

By Mr. Dixon—I was gardener and coachman to Mr. Fleming at Dunoon for five years up to 15th May last. Jessie M'Pherson and Jessie M'Intosh (Mrs. M'Lachlan) were there as servants when I went. Jessie M'Pherson remained three years after that, and Mrs. M'Lachlan two summers; she stopped in Glasgow in winter, and went to Dunoon in summer. I used to hear the deceased and Mrs. M'Lachlan often talking of the old gentleman (Mr. Fleming) proposing to marry the deceased, and laughing and joking about it. One day deceased told me that he was very anxious to marry her, and would give her all he had if she would do it.

By Mr. Young—I don't think she told me that in presence of Mrs. M'Lachlan, but I used to hear them often speaking about it. Mrs.

J. Thomson M'Lachlan used to joke her about it, and so did I. When she told me that he was anxious to marry her I believed she was serious, and I believe so still.

By Mr. DIXON—I never saw anything in the old man's conduct to lead me to believe it. She told me that when Mrs. M'Lachlan was in the service; both Jessie M'Pherson and Mrs. M'Lachlan were good-tempered as far as I ever saw; very loving together, and very good friends always; in fact, more like two sisters than anything else. They were both in the service for the first two years that I was there; then Mrs. M'Lachlan left to get married.

By Mr. GEMMEL—I never saw anything improper in the old man's conduct towards the servants.

Dr. Fleming

Dr. FLEMING (a Witness examined at the Trial).

Mr. YOUNG [after reading to witness passages from Statement of prisoner regarding the death of Jessie M'Pherson and the behaviour of herself and old Fleming on that occasion (pp. 222-227 of Report of Trial)]—Is there anything in all that which, according to your opinion as a medical man, is contradicted by all or any of the appearances presented by the body, or the premises, as you saw them?—There is one point with reference to the wounds on the face. The only wounds on the face were the one across the forehead, and the two across the nose. These, I think, could not have been inflicted on a person standing; she must have been lying on her back, I think, at the time she received them. The nature of the wounds indicates that distinctly. I don't think any one of these strokes could have been given by a party coming in and striking her on the face while she was on her feet.

The wound across the forehead must, in your opinion, have been inflicted when the deceased was lying with her face up?—Quite so.

And therefore the appearance presented by that wound is, in your opinion, inconsistent with the account which the prisoner says Jessie gave her, as to how she had been struck at first?—Yes.

I suppose what you proceed upon is the direction of the wound?—Clearly.

What was the peculiarity in the direction of the wound which leads you to the opinion that it must have been inflicted when the deceased was lying with her face up?—The wound was right across, at right angles to the nose, just as if she had been lying on her back, and struck by a party standing at one side of her. Had the blow been given while she was on her feet it would have been a diagonal wound. The three wounds on the face were probably given at the same time, or nearly at the same time, because they are all in the same direction.

Does the direction of these wounds lead you to the conclusion that it was impossible, or merely improbable, that they should have been inflicted when the deceased was in any other position?—It is not impossible, but it is highly improbable. For instance, she might get a stroke across in this way (showing). That is a possible case, but I think it is highly improbable.

I suppose the improbability would be diminished if she was sitting at the time?—Yes. Dr. Fleming

Is there anything else in the prisoner's statement which occurs to you as being inconsistent with the appearances presented by the body or the premises?—No.

Is everything else in that statement entirely consistent with the appearances which you observed upon the body, and upon the premises?—So far as I can judge, it is.

Were the marks of blood upon the bed such in their character, and in the extent of them, as you would have expected, assuming that the deceased was lying there when these cuts were inflicted?—Yes, distinctly.

But I also understand you to say that the prisoner's statement about putting her to bed, after finding her there, would also account for the marks of blood upon the bed?—Of course, she would be bleeding, and the marks would be on the bed.

Such marks as you saw, and in the position in which you saw them?—Clearly.

What are your reasons for thinking that there was a struggle?—We founded our opinion on that point upon the appearances on the floor. The floor had a peculiarly scratched appearance, as if from the shuffling of the feet of parties who had been struggling. Then, behind the kitchen door, and low down upon it, there was a large patch of blood; on the back of the kitchen door similar streaks of blood were across the back of one of the kitchen door-posts, and at the end of the jawbox, or sink, there were distinct marks of bloody fingers. Then the hand of the deceased was very much mangled, as if it had been held up for the purpose of warding off the blows aimed at the head. From all these appearances we inferred that there had been a struggle.

By a struggle do you mean that the deceased and her murderer had been in grips?—Yes, exactly.

Would the cuts on the hand indicate whether a struggle had taken place. Might they not have been the same though the deceased's hands had never touched the murderer?—Clearly.

Then you can draw no inference about a struggle from the cuts on the hand?—It was taken in connection with the other appearances. The report was drawn up by my colleague, and he put in that phrase.

The mark of blood on the kitchen door—how would that indicate a struggle?—It was the peculiar appearance of the mark.

What was peculiar in the appearance of the mark which made it indicate a struggle?—The first part of it commenced in the centre of the door, and it was perfectly evident, from the appearance of it, that either the head or the dress of the person must have been drawn across at that point, and the finger marks at the end of the jawbox indicated that a person had been falling down at that place.

But I understand you to say that the account given by the prisoner would equally account for all the appearances from which you inferred that there had been a struggle?—Oh, yes; I think so.

The prisoner says nothing about a struggle. Her account is inconsistent with a struggle; and yet, I understand you to say that

Dr. Fleming the account which she gives would explain all the appearances from which you inferred that there had been a struggle?—Yes.

Therefore, these appearances cannot lead you even probably to the opinion that there was a struggle?—We just came to the conclusion from what I have stated.

On consideration and reflection, are you now of opinion that the appearances which you saw don't enable you to form an opinion whether there was a struggle or not?—Well, I cannot go that length. Our opinion was formed from what I have already stated; and I think these appearances would hardly have been there unless there had been some struggle, or unless some shuffling had taken place.

Tell me any of the appearances which could not have occurred unless there had been a struggle?—The peculiar appearance on the floor, as if from the shuffling of feet.

Then the appearance of the floor is not consistent with the prisoner's account?—I should like to hear again her statement as to that.

She and the old man together assisted the deceased into the kitchen. She moved about the place herself, and they were beside her in the kitchen. The old man, according to her account, committed the bloody deed when she was lying on the kitchen floor, and then dragged the body from the kitchen into the laundry. That is her account of it. Will it account for the appearances equally as the notion of a struggle?—Yes.

Therefore, these appearances are not inconsistent with there having been no struggle at all. Was there any appearance which indicated that there must have been a struggle?—They don't indicate that there must have been a struggle, but there may have been. The probability is that there was a struggle, taking everything into account.

If all the appearances are equally explained by the prisoner's account as by the conjecture that there was a struggle, how is it more probable that there was a struggle than that there was not?—The finger marks on the end of the jawbox, I think, would indicate that during the supposed struggle the party had been in the act of falling, after the supposed shuffling of the feet, and in falling had laid hold of the end of the jawbox.

Any bloody hand on the edge of the jawbox would have made the mark, though the owner had not been falling?—I admit that, but still there is that peculiar mark.

It is consistent with your conjecture?—Yes.

But not inconsistent with the other view?—No.

It is equally consistent with either view?—Yes.

Then if a mark is equally consistent with either view, it does not indicate that the one is more probable than the other?—No.

Is there anything else which, as a medical man, you can give further light upon?—Nothing occurs to me.

Now, to avoid mistakes, observe what I understand you to have said. The conjecture which you formed as to the way in which the murder was probably committed involved the notion of a struggle, and the appearances which you found were consistent with that notion; but the appearances which you thought indicated a struggle are equally

accounted for by the prisoner's statement (whether that is true or false is another question); and that statement excludes the notion of there having been a struggle; in short, there were no appearances, either upon the body or on the premises, which are not entirely consistent with the prisoner's statement, except only the three wounds upon the head and face which you have mentioned?—Yes. **Dr. Fleming**

That is the result of the whole matter?—Yes.

As matter of evidence, it stands as I have stated, so far as your judgment and observation go?—Quite so.

Dr. Watson (a Witness examined at the Trial). **Dr. Watson**

Mr. Dixon—You examined the wounds on the head of the deceased. Do you consider it possible that the wound across the bridge of the nose could be inflicted while the assailant and the victim were both in a standing position?—Yes, quite possible. It depends upon the height of the person inflicting the wound. If the person inflicting the wound was high enough to strike a blow parallel with the wound with his extended arm; then it is possible both may have been standing.

Might not the wound have been received while the woman was sitting?—That is perfectly possible.

Then it is not necessary that the deceased should have been lying on her back with her face up in order to get these wounds?—By no means.

These wounds would probably stun or fell the woman?—Yes, very probably.

By Mr. Young—Any one of them?—Any one of them; either of the wounds on the nose or the wound on the forehead might and probably did stun the woman.

Do you mean would knock her down?—Yes.

In all probability the blow which caused the first cut would fell the deceased and stun her?—I think that is probable; it is probable that any one of the wounds would completely stun her and fell her.

Mr. Dixon—Then, if you suppose that the nose wounds were the first inflicted, there is nothing in the position of the transverse wound across the forehead to make it necessary to conclude that the woman was attacked in a recumbent position?—Nothing.

Is there any necessary connection between the nose wounds and the transverse wound across the forehead to indicate that they were inflicted almost simultaneously by a repetition of the blows as fast as they could follow?—No.

There may have been an interval and a change of position?—There may.

By Mr. Young—Are you speaking of extreme possibilities or of reasonable possibilities?—Of reasonable possibilities.

By Mr. Dixon—Suppose the deceased had been drinking water, and rose and made water about two or three o'clock, and was murdered between four and five, is it an impossible thing that the urinary bladder should have been half full, or that there should have been a considerable quantity of urine in it?—No; I think it is not at

Dr. Watson all impossible that there should have been some quantity of urine in it. I saw nothing in the appearance of the body or the premises to indicate that a severe struggle had taken place in the kitchen. I saw not one bloody footmark on the kitchen floor. I saw not the least trace of scratching on the flagstones.

By Mr. GEMMEL—I did not make a particular examination of the house. I looked at the kitchen floor, and I am sure if there had been bloody footmarks on it I would not have missed them. I did not examine the bedroom. I examined the kitchen while waiting the arrival of the police surgeon. When he arrived I restricted my attention to the state of the body.

By Mr. YOUNG—I made no examination of the premises with a view to draw inferences as a medical man. I walked through the kitchen and remained in it a few minutes with Mr. Fleming before Doctor Fleming arrived, and I think if there had been bloody footmarks on it I would have noticed them, because I noticed other bloody marks there on the jawbox and on the door. Bloody footmarks would not indicate a struggle. I have read the prisoner's statement. It is quite consistent with the appearances on the kitchen floor.

Is it quite consistent with all the appearances which you saw?—Well, I have no distinct fact to oppose to the statement, but I have a little doubt upon one or two points of it; the wounds on the wrist are not explained, and I have doubts as to the mode of dragging in the body; the wounds on the wrist indicate a struggle, and that struggle is not mentioned in the prisoner's statement; the wounds on the wrist were very peculiar wounds, and my opinion is that they were made with a lighter and sharper instrument than the cleaver, for surgical reasons. I think they could not have been made with the cleaver; they are more likely to have been with a light knife, a pocket knife, or a table knife. Had they been made with the cleaver they would have been torn and lacerated, and the structures beneath would have been hurt; they were cleaner cuts than the cleaver would have made; they were simply through the skin, leaving the tendons quite uninjured. My opinion is that these wounds were made during life; they were gaping wounds, but there is a possibility of their having been made just immediately after decease; it must have been immediately after decease; it is more probable that they were made during life. As to the prisoner's statement that "he took the body by the oxters and dragged it ben into the laundry," my doubt arises from the position of the body; the head was towards the door of the laundry, and the feet towards the window; and the table and the bed were placed so as to almost permit the body alone to lie between them, leading me to the conclusion that the body was rather dragged by the feet, and face down. I thought that the person must have gone between the legs of the deceased, as between the handles of a barrow, and dragged the body behind him, head downwards, otherwise they must have gone the circuit of the room; that it was pushed before them is very unlikely. Then, again, to lift a dead body by the armpits would require a very powerful person, and to drag it in, in such an unlikely position, would require a very great effort; and, again,

the clothes of the deceased were all dragged up about the arm-pits. I think the body must have been dragged in by the feet. If the word "feet" had been substituted for "oxters" in the prisoner's statement, it would have removed the difficulty. The body was untouched when I saw it; there is more appearance of blood under it on the plan than there really was; the face was not lying in a pool of blood—there was nothing like a pool of blood. The shift and all the clothes on the body had been dragged up upon the head, and these were bloody; the face was lying upon bloody clothes. The dragging up of the clothes and the position of the arms, which were up at the side of the head, confirmed my notion that the body was dragged in by the feet. Dr. Watson.

By Mr. Dixon—In all other respects my knowledge of the case coincides with the woman's statement.

Dr. Macleod (a Witness examined at the Trial). Dr. Macleod.

[Letter written by witness to Mr. Gemmel, and forwarded to the Lord Advocate, read.][1]

By Mr. Young—The supposition as to the marks of bloody fingers on the closet door is purely conjectural?—It was very difficult to make out whether they were finger marks or the mark of a cloth; several of us examined it, and we were not agreed as to how it was produced. On the whole, that conjecture is one which I am not disposed to take any account of; I have every reason to think that the wound on the forehead and the two wounds on the nose were inflicted at once; they present the appearances of the same age, and they are absolutely in the same direction, quite parallel the one to the other. The two nose wounds cleft the nose down to the base, through the bones and soft tissues, but did not extend to the face on either side; they were clean cuts through the nose, of even depth.

Do you think it impossible or only highly improbable that any one of these wounds could be inflicted upon the deceased while she was in an erect position?—Supposing two persons of equal height confronting each other, I don't think it possible, without raising the elbow into a most unnatural attitude, to cause these three wounds to be directly transverse.

But take any one of the wounds?—I cannot say it was impossible, but I think it very highly improbable, from its direction. It was as directly transverse as could be. There was not the least obliquity in it. The one on the forehead was the longest, and thus gave a better idea of the position in which they stood to one another.

Suppose one of these blows upon the deceased when erect, that, according to your opinion, would stun her and fell her, she would then be in a sufficiently horizontal position, and there would be no difficulty in accounting for the other two?—No.

Now, is that not possible?—It is perfectly possible; the improbability arising chiefly from this, that the three wounds were so per-

[1] Production of this letter was refused by the Home Secretary in the House of Commons on 4th June, 1863.—Ed.

Dr. Macleod fectly parallel that they point to the murderer having stood towards his victim in the same position during the infliction of the three. Of course, it is perfectly possible that whoever committed the murder might have got into such a position as to have inflicted the other two afterwards in the same line; but it is very improbable.

You assume that her head was quite erect. Would any inclination of her head affect the direction of the wound?—Yes.

And a wound which would have been oblique had the head been straight would, just in proportion to the inclination of the head, be off the oblique and on the horizontal?—Yes; but it would require a very fine adjustment of the inclination of the head to bring it exactly to that inclination which would correct the obliquity of the blow. It would be a curious fact that the two should correspond.

But to the extent to which there happened to be an inclination of the head when the blow was inflicted, that would remove the difficulty?—Yes. I was not present when the body was found; but it was, I believe, in the same position as it was found in, when I saw it.

Dr. Watson has stated that, in his opinion, the body was probably dragged in by the feet, the murderer getting between the legs and pulling the body like a wheelbarrow behind him; and one of his reasons for thinking so is that the clothes upon it, which were bloody, were pulled up over the face, and that the face was found lying on these bloody clothes. Assuming it to have been so, would that not render it difficult for you to tell whether the face had been washed or not after the first injuries were inflicted?—Merely confining the remark to the face, and not speaking of the chest?

Yes—I think not. I could give a very sufficient reason for supposing that the explanation of the way in which the body was drawn into the bedroom is wrong. In my original report I state that the limbs of the deceased were dirtied and abraded upon their anterior aspect. Both feet were extended to their full extent upon the leg, and the abrasion and the dirtying of the limb, evidently from coming in contact with the ground, was only from the knee to the foot, and on the anterior surface of the limb. There was no other mark of abrasion or scraping, such as there would have been if the dragging had been on any other part of the body. It was in exactly the position which I would have expected it to assume if it had been dragged in before the *rigor mortis* had been fully established.

That, in your opinion, conclusively shows that the body had been drawn by the head with the face downwards, the legs, between the knees and the toes, being dragged upon the ground?—Yes. The dragging had been from the knee downwards. There was the ruffling of the skin, which I am accustomed enough to see from bodies being drawn in like manner. If the body had been drawn by the legs, with the face down, the skin of it would not only have been ruffled, but the blood would probably have been removed from it, which it was not, for all the streaks were entire.

How would you account, on that supposition, for the head being towards the door?—I cannot account for that. That has always puzzled me from the first.

Were you aware before of the clothes being in the position which Dr. Macleod I have mentioned?—I was not.

If the clothes were in that position, dragged over the head, and the face lying upon them, that would be attended with the same difficulty as the position of the head?—I think so. The face being drawn with the clothes between it and the ground would have removed the rough parts of the blood from the face, but these were not removed when I saw the body. Every stripe of blood on the face was entire when I saw the body; there was no rubbing on any part of the face.

I suppose blood may have run down the face after the body was taken into the bedroom?—That depends on whether the body was dead when it was taken there; if it was perfectly dead the bleeding would stop.

Will blood not flow for a moment after death?—Oh, yes; it would flow for some short time, not in jets, but so as to make streaks of blood.

Such streaks as you saw?—They were apparently red, arterial blood.

Suppose your theory to be quite right, that the body was taken into the bedroom in that way immediately after death, or immediately after she was supposed to be dead, might not these streaks have come down then?—The blood must have escaped very shortly after death, because it was coagulated on the face. The blood was not dead, in our language; its vitality remained. Dead blood does not coagulate; it remains liquid.

[After reading from prisoner's statement—"About three o'clock, I suppose it was, Jessie told him to go away ben the house. He said he was very weel where he was. She told me she wanted to rise and make water, and she got up in bed. I told the old man to go away for a little, which he did, and I helped her out and assisted her. She said after she rose that she felt very stiff and cold, and if she could get ben to the fire."] Now, if on 5th July the woman made water when the morning was beginning to break, and afterwards had water to drink, and was killed outright between four and five o'clock, might not the bladder be half full then?—It is a very difficult question, as to which I should be sorry to dogmatise or give a strong opinion. The urine is secreted with great rapidity; but we have the fact here that she had lost a great deal of blood, which would to a very considerable extent diminish the secretion of the urine. The bladder being half full implies a large quantity of urine. Still I think it possible.

Your attention being called to the circumstances to which I have now referred, do you think it would be safe to attach any importance whatever to the fact of the bladder being half full, as a contradiction of the statement in itself?—I think if the woman made water about two o'clock, and took a drink after that, and was killed outright between four and five, living for two and a half hours, I think it is quite possible that the urine might be there.

Your attention being called to those parts of the statement, do you think that it would be at all safe to attach any importance to the fact that the bladder was half full?—No.

Dr. Macleod You were of opinion that there had been a struggle, from the appearances on the body and on the premises?—Yes.

Are there any of the appearances from which you originally inferred a struggle which might not be accounted for by the prisoner's statement?—I have not seen anything in the statement that would account for the footmarks on the kitchen floor. There were a number of marks of bare feet on the kitchen floor, round the circumference of the part that is washed—what I referred to in my evidence at the trial. And in what consists the evidence?—The evidence was that the kitchen floor had been partially washed. Upon the washed portions of the floor there were considerable stains, which I carefully examined by going down on my knees and getting the light to fall on these stains. It was quite apparent to me that those stains were the marks of blood; they were greasy, and had the reddish look of imperfectly effaced blood. Around the circumference of the part of the floor which had been washed there were impressions on the floor which I was then convinced, and am now convinced, had been footmarks—confused footmarks. If I might be allowed to explain what I mean by footmarks, they were the marks of a sort of twist or turn of the heels on the floor, and the ball of a foot had also left its marks upon the stones.

Is there anything else?—No; the only other point which I cannot explain by the prisoner's statement is the marks of a bloody hand, which I referred to in the next sentence of my evidence, "There were also marks of blood found," &c.

But do these marks contradict the statement, and show that it is not true?—No; except that I cannot see by her statement how they could have come there.

Might they not have come there from anybody in the house with blood on their fingers?—In that view I cannot say that her statement is contradicted.

Then, do you say that what you have referred to as the impressions of footmarks on the kitchen floor contradict her statement?—So far, that I don't see how these could have been produced unless there had been people engaged in a struggle, or in whirling round on the same spot.

But, according to her statement, both old Fleming and herself were working a good deal about the deceased in the kitchen?—But they were too concentrated marks for that. The turns in the heel are not such as a person produces when walking about, and they were not on the part of the floor where they would have been beside the woman. She is represented as laid down by the fire, but a number of these footmarks were away up towards the press (shows on plan). They were on this space which had not been washed.

Do you think that these marks on the floor are important as a contradiction of the statement?—I think so, decidedly; I think they are such marks as could not have been produced except by two people wrestling together in the kitchen. The marks were quite evident when I saw them.

If old Mr. Fleming was in the kitchen and cooked his meals, and had his meals there on the Saturday, Sunday, and Monday, he must

have seen something odd about the floor, one would suppose?—They were not such as would attract a person's attention, unless examined carefully, from the nature of the floor itself. They were marks of a bare foot, not of a shoe carrying earth or lime with it. **Dr. Macleod**

And it must have been a severe struggle?—That was my impression.

But although the marks were such as you should not be surprised at a man frequenting the kitchen for three days never observing at all, you nevertheless think it safe to draw an inference from them at variance with the prisoner's statement?—I think so, considering the man.

Do you think a woman who had received the wounds on the forehead and the nose would be capable of engaging in a severe struggle?—She might.

Although the first of the blows was such as must have stunned her, and felled her, and there were three of them?—They would stun her temporarily.

You think that she could thereafter engage in a severe struggle?—Yes. By severe I mean that there was a good deal of it, not perhaps that she was able to make any very strong resistance; I mean that it was prolonged.

You think the three wounds were inflicted at once?—Yes.

And after she had sustained these three wounds, you think the deceased could have gone herself from the laundry into the kitchen, and engaged in such a struggle as would leave marks, from which you could say, three days afterwards, that there had been a struggle?—I have no doubt of it.

Do you go the length then of saying that these appearances are absolutely inconsistent with the prisoner's statement, so as to enable you, with satisfaction to yourself, to pronounce that statement to be false?—You mean merely the marks on the kitchen floor?

Yes?—To my mind it is so; the position in which the marks were found, not being by the fire, and their character. To my mind that is quite conclusive.

That the statement must be false?—So I conclude.

And although there was nothing else you would, upon these marks on the floor alone, arrive at that conclusion with satisfaction to your own mind?—Yes.

I think you said there was nothing else in the appearance of the body or the premises inconsistent with the statement?—There was another point which I found very considerable difficulty in explaining by her statement, viz., what is mentioned in my original report, *i.e.*, when the neck of the deceased was washed. According to the statement the washing took place previous to the infliction of the wounds on the neck. She says she had bathed the woman's face in the interval between the time that the wounds on the forehead and nose had been inflicted, and those on the neck, by which the woman was finally murdered.

She says the first injuries were inflicted when she was out, and she speaks as to these from the information of the deceased?—All the wounds on the neck were not only precisely parallel, but had all the

Dr. Macleod appearance of having been inflicted from the same position at one time.

Had the body the appearance of having been washed there after the wounds had been inflicted?—Yes, upon the neck.

Have you any theory to account for the washing at all?—None; I cannot account for it.

It is inexplicable, apparently?—Quite. I never could account for it.

That would hardly contradict the statement, because it seems equally inexplicable whether that statement be true or false?—Except that it militates against her statement that she laved the face after the wounds on the face; but afterwards, when the woman had been murdered by the blows on the neck, which were the fatal injuries, the body seems to have been dragged into the room, and we find the neck washed.

But nobody can tell why that was done, or when it was done?—Except that it was subsequent to the wounds.

Some time between Friday and Monday?—Yes.

And at whatever part of that period it was done, the inexplicability is precisely the same. You cannot explain it?—No.

You see no reason for it?—No, I never could.

Then, probably, you would not rely much upon that inexplicable thing as being any contradiction of her statement?—The impression I derived from the statement was that the deceased had received certain wounds upon the face, and that after that she had washed her face with water to revive her, and that subsequently, at another period of the contest, she had been murdered by certain blows upon the neck, and that then the body had been dragged into the bedroom.

Whether the neck was washed or not she does not say?—From that I would suppose that we would find on the face traces of washing, but that we would not find them on the neck, unless it was done at some subsequent period by another person; whereas, on the contrary, we find the face not washed, and the neck washed.

The time she says she bathed the face was between eleven and twelve at night?—The face was engrained with dirt and blood in a way I don't think it would have been if it had been washed.

By Mr. Dixon—Had she been lying with her face on the kitchen floor, her jaw fractured in three or four places, and cuts on the top of the head, could that have happened without a considerable quantity of blood and soiling on her face?—It would have been equally on the neck. All the wounds on the neck must have been inflicted at the same time.

By Mr. Young—There is nothing else which I desire to add.

By Mr. Gemmel—There were no marks on the back of the head at all.

By Mr. Young—I cannot say that she had not fallen, but only that there is no proof of her having fallen; nothing either way.

By Mr. Dixon—A portion of the chest was washed, as well as the front of the neck.

Appendix III.

Dr. Mathie Hamilton. Dr. Hamilton

By Mr. Dixon—I practised as a physician in South America between 1826 and 1848, and I am the author of a number of medical works. I believe there are very few men north of the Tweed who have seen as many cases of murder and assassination as I have. I saw the skull of Jessie M'Pherson in the Philosophical Institution on the Monday after the trial. The soft parts were all off the skull; it was in a state of maceration. I saw the incision across the bridge of the nose.

Did it strike you that it was impossible that that wound could have been inflicted while the deceased was standing?—Impossible! most undoubtedly not. To talk of anything of that kind being impossible is an absurdity; for this reason, that the blow might have been given horizontally, or by what we call a back blow; and the form of the wound would depend on the instrument with which it was inflicted. I am not warranted to form the conclusion that it was inflicted by either one instrument or another, not even by a sharp-edged instrument.

There was nothing in the appearance of the incision in the bone to indicate that to you?—Certainly not. I would not like to speak dogmatically, but to talk of the blow having been impossible is, I consider, an absurdity.

Is it improbable that that wound was inflicted while the woman was standing or sitting?—I don't think I am warranted to answer that question.

Martha M'Intyre, aged 21, a Witness examined at the Trial. M. M'Intyre

By Mr. Dixon—I entered Mr. Fleming's service on 11th November last, and left it on the first Saturday of January. Jessie M'Pherson was in the house with me all the time. She was the only other servant. Old Mr. Fleming came very much about the kitchen; he passed more of his time there than upstairs when the family were away. They were frequently away for a few days when I was there.

By Mr. Young—The family consisted of the old man, his daughter, Margaret Fleming, his son, John Fleming, young John Fleming, Miss Annie and Miss Catherine Fleming, two daughters of John Fleming. When I speak of the family going away, I speak of all except the old man and his daughter Margaret. The others were often away at Dunoon; from Friday to Monday occasionally.

By Mr. Dixon—Jessie often objected to his coming to the kitchen. He just sat down by the fire and cracked with the girls. Sometimes he would sit for an hour or two in the evening; he generally sat all the evening from tea time till he went to bed. He came in about two o'clock in the afternoon, and generally sat for an hour or so in the kitchen, and got some lunch. He liked to know all that was going on; he was very inquisitive about everything. If he heard any one come in he always asked who they were, and what they wanted; I mean any one coming to see the servants in the kitchen. He got up sometimes between eight and nine, but he never came out of his bedroom till about ten o'clock for his breakfast. He used to go about

M. M'Intyre in the morning before he dressed for breakfast; he would go about between his own room and the room downstairs, where he kept some of his clothes; he used to go a good deal up and down there. He would be half-dressed, without his coat. He generally went to bed about nine o'clock, or between nine and ten; he had no particular hour for going to bed, but it was generally about that time.

Did he ever talk to Jessie and you in the kitchen about his being determined to get married now?—He used to talk about that, but I understood it to be in a joking way. He used to say often that he would like to get married; that he had more need of a wife now than when he was a young man, to take care of him. He used to come over that pretty often.

By Mr. Young—I understood it to be joking, and, as far as I know, Jessie did so to.

By Mr. Dixon—There was in the house a bottle, in which they kept spirits upstairs, with a round neck and round flat bottom. I have seen him with that bottle in the kitchen, with drink in it. I have seen him frequently come down to the kitchen and make toddy at night, if the family were from home. He gave Jessie and me a share. He took his toddy in the kitchen pretty regularly when the family were from home. I have seen him with whisky in one bottle and rum in another.

By Mr. Young—I never saw Mrs. M'Lachlan at the house but once, and then she did not come in; she called at the door and asked for Jessie M'Pherson. I went down and told Jessie that there was a person wanting her, and it was after Jessie came down that she told me it was Mrs. M'Lachlan. The milk generally came about half-past seven or twenty minutes to eight, or a quarter to eight in the morning. Old Mr. Fleming got his porridge in the morning immediately after the milk came. The porridge was always ready, waiting for the milk coming. He knew very well when the milk came; he sometimes asked if it had not come, as he was wearying for his porridge. He was fond of milk to his porridge, and always got a breakfast cup nearly full of the new milk every morning. Paton was the name of the man who came with the cart. On New Year's Day he treated Jessie and me, and my brother, who had come to see me, and he took some himself. That was the only occasion on which he treated any of our friends who came in; at the other times when we had toddy together there were no strangers present.

By Mr. Gemmel—I have seen him that he would talk a great deal from taking drink, but I never saw him very much the worse of it.

J. Brown

Jane Pollock or Brown, examined.

By Mr. Young—My little girl Mary was in the habit of washing down the stairs of Mr. Fleming's house for Jessie M'Pherson. She always left my house about half nine o'clock in the morning—half-past eight—never mostly before that. There is a bell that rings near the house, and she runs away when it rings. I remember her going out about that hour on Saturday, 5th July last;

she left about her usual time, half-past eight. I did not know that she was going to Mr. Fleming's that morning any more than any other morning, but I knew she always went there. She did not say that night that she had been there any more than any other night. She was not in the habit of doing that, but she gave me her earnings. **J. Brown**

When did she first speak of having been at Mr. Fleming's that day?—One night shortly after the murder was published in the newspapers, and people were speaking about it, she came in after being out all day. I was lying at the time very bad, and she was sitting at the fireside, and making the wonder of her being in the house and the like occurring. I said, "Mary, it was strange in you to go in when you didna' see the girl." She said, "Mother, it was all one to me when the man asked me to come in." I said, "Never let me hear you open your mouth about it, for fear you may get into some hobble about it." She said she washed a small bit of the lobby forment a door, and she said there was something like stains on it, and it was like rubbed over with black soot, and the water was quite black, as if something had been spilled on it, and something black rubbed over it. She said she had a great rubbing to rub it off; and that the old man gave her a piece of white flannel like as if it had been torn off a semmet, and also a bucket with an iron handle full of water, and he said, "Scrub it well, my girl." That is what she told me sitting at the fireside. It was about the end of the week after the thing was published in the newspapers, she said it was old Mr. Fleming that opened the door, and that she knew him well, for many was the time she had seen him, and ran to hide from him; when she was going in to see Jessie she was feared to let him see her go in, in case he might object to it. That is all I recollect her saying; she did not say whether she noticed anything particular about his dress; she did not say anything about meeting Mrs. M'Lachlan on her way there; she never named her.

Is she quite an intelligent girl?—Oh yes; she is very smart.

MARY BROWN, recalled. **M. Brown**

By Mr. YOUNG—I thought the place that I cleaned looked as if a bare foot had been put on the waxcloth, and soot had been put on it, so as not to let it be noticed. I saw the mark of the foot. I couldna' be right sure that it was a woman's foot. I only noticed one foot-mark. It was in the direction as if the person had been stepping into the bedroom from the head of the stair. It was close to the bedroom door. The bedroom door was a good little bit open. I washed into the bedroom as far as the waxcloth was in. The mark of the foot was like from the head of the stair into the bedroom. I thought soot had been put over it to hide it. The stain that the soot had been put over was liker blood than anything else.

Why did you not tell me that before?—I never had a bit mind of it till my mother told me to-day. She had kept mind of it. I remember it distinctly now. It was not very easy to get out. I had no scrubbing brush, just the piece of flannel, and I had to give it a good rubbing.

M. Brown Was there any red on the cloth?—I would not see it because of the soot. The old man stood at the side of me all the time.

Did he say anything?—He spoke only once, when I was going away. He catched a grip of me by the hand, and put his hand on my waist, and said I was a nice girl. Then he gave me sixpence. I said, "Was that all?" and he said "Yes."

Did he tell you to wash it well?—Yes, he said, "Wash it well." That was when I was working at it. He did not put the dirty water out of the bucket into the closet when I was there. When I was going downstairs with it he said, "Leave it there."

Mr. Gemmel—Did you smell soot?—Yes, I smelt liker soot than anything else. I know the smell of soot; I smelt soot when I was washing it.

By Mr. Young—I know soot when I see it. It was soot put on to hide the stain.

Did it seem to have been very lately put on?—No. It was as if they had taken a dirty cloth and wet it, and rubbed it over it, and then it had dried. The soot was put wet on, and then it had dried; it was hard on.

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(3) Witnesses who were Examined by the Procurator-fiscal before the Sheriff, and their Statements furnished to Mr. Young, although they were not re-examined by him.

Alloa, 30 September 1862.

A. Blair Alexander Blair, aged 42, says—

I am a brewer, and I reside at Millgrove, Alloa, in the parish of Alloa and county of Clackmannan.

I know old Mr. Fleming and his son, John Fleming. On Monday, the 16th day of June last I went to Dunoon and spent a few days with John Fleming, at his cottage there. I left Dunoon to go home to Alloa on a day in the end of the same week. I cannot positively say that it was Thursday, but it must either have been Thursday or Friday. John Fleming accompanied me to Glasgow. We arrived in Glasgow early in the forenoon. I slept in Mr. Fleming's house in Sandyford Place that night, Mr. Fleming being also in the house; my intention being to go home next day. Old Mr. Fleming called me next morning at about eleven o'clock; he rapped at the bedroom door, and I admitted him. I dressed, and had breakfast in the house. Old Mr. Fleming and I left the house about one o'clock afternoon, and drove to the Cathedral. We then drove to the George Hotel, in George Square, where we had some brandy and soda water; we had two glasses of brandy and soda water each. Mr. Dron, the landlord of the hotel, was present, and had some seltzer water. Old Mr. Fleming left the hotel in a cab for Sandyford Place about four o'clock afternoon. As I was giving Mr. Fleming a drive, I paid the driver the cab fare, and told him to drive to 17 Sandyford Place. Old Mr. Fleming was not tipsy; he was hearty, and in good spirits. The

driver drove off right across the square in the direction of Sandyford Place. It was Dron who was requested to get the cab, and one of the waiters procured it. I left the hotel at six afternoon, and went home by the quarter past six train. I did not return to Sandyford Place after leaving the house at one o'clock. A. Blair

I gave Jessie M'Pherson a gratuity of, I think, half a crown before leaving the house.

Glasgow, 2 October 1862.

JAMES M'GINN says— J. M'Ginn

I am a cab driver in the employment of James Gilligan, carriage hirer, 55 Hanover Street, and I reside at 10 Dempster Street, Glasgow. Aged about 42 years.

I stand in George Square with my cab. On the afternoon of a day in the month of June or July last, as I think (but the date more particularly I cannot fix), I recollect of being called to the George Hotel, and I went there with my cab. I saw Mr. Dron, the proprietor of the hotel, and other two gentlemen, one of whom, Mr. Dron said, was a Mr. Fleming; and the other gentleman asked me to drive Mr. Fleming to 17 Sandyford Place, and the gentleman paid me the cab hire, which was 1s. 6d. I drove Mr. Fleming to the address above mentioned, and the door was opened by a middle-aged female of rather dark complexion, and I saw Fleming enter the house. I think this was about five or six o'clock. The cab was open, and Mr. Fleming, I observed, sat forward, with his head hanging down, and appeared to be in a drowsy state; he was under the influence of liquor, but was able to go into the cab without assistance. On coming out of the cab, however, at the door of the house at Sandyford Place he stumbled, and I laid hold of his arm and assisted him up the steps to the front door, and then I was satisfied he had got drink.

I have not seen Mr. Fleming, to my knowledge, since the day referred to, and I do not think I would know him again. I did not ascertain the name of the gentleman who was along with Mr. Fleming, and who paid me the cab fare; he appeared to be sober. I do not recollect the day of the week on which this occurred, nor the day of the month, and I have no means of finding out the date. Mr. Dron was at the door of his hotel when I went away with Mr. Fleming.

Glasgow, 30 September 1862.

BERNARD M'LAUGHLIN says— B. M'Laughlin

I am a Sheriff's officer in Glasgow

I was out at 17 Sandyford Place on Saturday the 12th of July last, when Strathern and the Fiscals were there, making a further examination of the house and outhouses, with a view to the discovery of anything tending to throw light upon the murder.

Among other places, I searched the ashes under the kitchen grate to see if I could find any remains of burnt clothing. There was a great

B. M'Laughlin

quantity of ashes, and I searched them very carefully. I found no pieces of cloth, or anything like the remains of burnt clothing; but I found a shirt button, which must have been in the fire, and burnt.

The button, when I found it, was entire, but it was so much burnt that I could not discover the pattern. I preserved the button, and showed it to the Sheriff and Fiscals. I proceeded to roll the button in paper, so as to preserve it, and in doing so it split through the middle. I wrapped the pieces in paper, and sealed the paper, and still retain it. I am satisfied there was not another button among the ashes in the kitchen. On the same day I took possession of an iron hammer, on which there were marks of blood on the side of the head of it. It was found on the kitchen dresser. It was duly labelled, and is now before me in the same state in which it was when taken possession of. I also took possession of a pair of men's socks, which I found in the servants' bedroom, between the head of the bed and the window. These were also duly labelled, and are now before me. I examined them most minutely, but could find no mark or trace of blood whatever upon them. The said socks are old and very much worn. I do not know to whom they belong. John Anderson was present when the button was found and hammer and stockings taken possession of. I know that Mr. Fleming's house was in the possession of the police from the time of the discovery of the murder till the date of my said search, and that the fire was kept burning during that time.

Glasgow, 30 September 1862.

D. Paton

DANIEL PATON, aged 46, says—

I am a dealer in old furniture, old clothes, &c., and I reside in (No. 92) Bridgegate Street, Glasgow.

I have lived in the same house in Bridgegate for about twelve years. Mr. John Fleming is the factor for the property, and his father has been in the habit of collecting the rents and looking after the property during the whole time, up till Monday the 7th July last. I saw Mr. Fleming at my own door on said Monday morning, about ten o'clock, and I then paid him a month's rent. I did not see him on the Saturday preceding this, nor did I see him on the preceding Friday. I have not seen him since the said Monday morning. He did not sell me, nor offer to sell me, any clothes on said Monday, and no clothes were left by him at my house either on the Friday or Saturday preceding. A fortnight before the murder, however, old Mr. Fleming sold me a coat and a pair of trousers, for which I paid him 6s. or 7s. It was a short coat, but I cannot exactly remember the colour of it; I think it was between a dark grey and a brown. The trousers were of a brownish colour. I resold said coat and trousers. I cannot say that I ever saw him wear said coat. I do not know whether it was his own coat or a coat of his son's or grandson's. They were sold to me in his son's house at Sandyford Place, and I went there to get them at his request. I have been in the habit of buying old clothes from him for seven or eight years back. Immediately after the murder

was made public I was called to the Fiscal's office, and examined by him with reference to my purchases of old clothes from Mr. Fleming; and I then told him what I have above stated, and distinctly recollected that it was a fortnight before the murder when I made the last purchase. I further stated that I thought I could then get back the coat from the person to whom I sold it, and, at the Fiscal's request, I tried to do so, but failed. I never saw, on any clothes which I purchased from Mr. Fleming, any marks of blood, or anything the least like blood. D. Paton

Glasgow, 30 September 1862.

Margaret M'Lean, aged 24, says— M. M'Lean

I am a cloakmaker, and I reside in Renfrew Street (No. 86), Glasgow. I was at the marriage of my brother James at Partick on Friday the 4th July. The marriage was celebrated in the house of the bride's father, Mr. Hadden, at the east end of Partick. My sisters Peterina, Jessie, and I remained at the house with the marriage party until half-past three o'clock on Saturday morning, when we left and returned home; it was then good daylight. We came along Sauchiehall Road on our way to town; and in passing Sandyford Place our attention was attracted by the whistling of birds amongst the trees in front of the houses there. This was exactly opposite the house No. 17 Sandyford Place, and I know that because I knew the house long before as the house of Mr. Fleming; I was told this by my sister Agnes. We stopped to listen to the birds, and I then observed a light in the room to the west of the door No. 17, on the street flat. I only saw light from one of the windows. I am sure of this. The shutters were not shut, but the Venetian blind of the window from which the light proceeded was drawn down. Three of the spaces of the blind in the centre of the window were standing open, and it was through these spaces that I saw the light. I saw the gasalier in the centre of the room quite distinctly, and I saw that only one of the burners of the gasalier was lit; it was turned fully on. It was the window immediately to the west of the door No. 17 from which the light proceeded. I think the gasalier was a bright yellow one, a handsome gasalier, with four lights, I think. When I observed the light I said to my sisters, "I wondered what they were doing with a light at this house." I saw No. 17 on the door, and have no doubt of this. I did not say that that was Fleming's house, although I knew very well that it was his. I saw no one in the room where the light was. I heard of the murder of Jessie M'Pherson at 17 Sandyford Place on Tuesday morning following; it was my brother-in-law, William Turnbull, who told me; I then told him about having seen the birds and the light at that number in Sandyford Place on the preceding Saturday. I did not think it worth while to tell the authorities what I had seen, as we had seen no one inside of the house. There's a good deal of shrubbery in front of Sandyford Place and a number of tall trees; the shrubbery and trees were in full bloom at this time. I first saw the number on the door by looking through the shrubbery,

M. M'Lean and when we came to the last entrance to Sandyford Place from Sauchiehall Road we stood there, and from that point I again saw the number on the door. What made me so particular about looking at the number on the door was the fact of having seen the birds and the light. I would have known said house was Mr. Fleming's although I had not seen the number 17. I am quite sure that Mr. Fleming's house is the second door in Sandyford Place from the last entrance.

Glasgow, 30 September 1862.

J. M'Lean JESSIE M'LEAN, aged 21, says—

I am a domestic servant to William Sim, granite merchant, and reside with him at No. 18 Walmer Crescent, Paisley Road, Glasgow.

I was at my brother James's marriage on a Friday night in July last, but the day of the month I cannot tell. I remained with the marriage party till about a quarter-past three on Saturday morning, and then I left, accompanied by my two sisters, Margaret and Peterina. In coming along Sauchiehall Road my sister Margaret directed our attention to the singing of birds on the trees in front of Sandyford Place. We stopped to listen to the music, and then my said sister directed our attention to a light in a room of one of the houses in Sandyford Place, and wondered why the gas was burning at that time of the morning. It was then good daylight. I saw the light pointed out by my sister, and it was in the window of a room in the street flat, and immediately to the west of the door of the house. I only saw the light inside of one window. When the light was pointed out, my sisters and I were standing on the south footpath of Sauchiehall Road, and outside of the railing and shrubbery in front of Sandyford Place. We were standing in front of the house in which the light was. The shutters of the room in which the light was were open, but the Venetian blind was drawn down; there were three of the spaces, however, about the centre of the blind which were open, and through these open spaces I saw distinctly a gasalier in the centre of the room. I think there were two of the lights of the gasalier burning, but I cannot be positive as to this. The shrubbery was pretty thick and in full bloom at the time, but still I could distinctly see the light while standing outside of the shrubbery. I saw the number "17" on the door immediately to the east of the window from which the light proceeded. I have no doubt of this, neither have I any doubt that it was Sandyford Place, as we were near Elderslie Street at the time. I do not remember whether the street lamps were lit at this time or not. There are no lamps inside of the shrubbery at Sandyford Place, nor between the shrubbery and the houses. There is, however, a lamp on the footpath in the Sauchiehall Road immediately opposite No. 17. I cannot say whether that lamp was then lighted. I did not at that time know that No. 17 Sandyford Place was the house of Mr. Fleming. My sister Margaret did not tell me that she knew the house, nor did she say that she knew the people who lived in it. I heard of the murder of Jessie M'Pherson

on Tuesday or Wednesday following, and it was my brother-in-law, William Turnbull, who told me of it. I then told my brother-in-law that our attention had been directed to said house on the immediately preceding Saturday morning, by the birds and a light in the window. When I heard of the murder I had then a distinct recollection of the house in which the window was through which the light was seen being 17 Sandyford Place. J. M'Lean

Glasgow, 30 September 1862.

PETERINA M'LEAN, aged 19, says— P. M'Lean

I am a domestic servant to William Morier, brush manufacturer, and I reside with him in Lansdowne Crescent (No. 4), Great Western Road, in or near Glasgow.

I was at the marriage of my brother, James M'Lean, at Partick, on the evening of Friday, the 4th July last. The marriage party continued all Friday night, and till Saturday morning. I, along with my two sisters, Margaret and Jessie M'Lean, who were also at said marriage, left the party at about twenty minutes to four o'clock on Saturday morning, 5th July, before it broke up. I left before the others present at the party, as I required to go down to Dunoon (where my master's family had gone on the preceding Thursday) on the Saturday morning. On leaving my said brother's house, my sisters and I proceeded along the Partick Road till we came to Finnieston Street, as I think, though I am not sure. We turned up this street, and thence into Sauchiehall Road, along which we went. In going along this road we had to pass along Sandyford Place, which I am aware forms part of said road, and is situated on the south side of it. When we were passing Sandyford Place our attention was attracted by a great many small birds that had gathered in a tree which grew opposite the houses there; and it being a beautiful morning, still and calm, one of my sisters made the remark, how pleasant it was to hear the birds whistling on such a lovely morning, when everything else was quiet. As this remark was made, my eldest sister, Margaret, drew our attention to the fact that there was a light in two of the windows of the house, near to the tree I have mentioned; and in reference to the light she observed, "Isn't it very curious to have light in a window at this time of the morning?" I said, "Perhaps they may have sickness in the house, or there may have been a late party." We stood opposite the house for a minute or two, and noticed particularly which house it was, and I observed on the door of the house the number 17. I am quite positive as to seeing this number. The windows where the light was were situated on a level with the front door on which I saw the number 17, and were immediately next the door to the west of it. I saw that the light came from the one window more distinctly than from the other; and I account for this from the fact that the Venetian blinds on one of the windows were quite close, and in the other some of the venetians in the blind were a little open, so that the light could be more plainly seen. I could see through the blind which was a little open that

P. M'Lean

the light was proceeding from a gasalier hung in the centre of the room, but that only one of the lights of the gasalier was burning, and that that light was, so far as I could see, burning with full brightness. The shutters on said windows were not shut. We were walking on the south side of Sauchiehall Road, and outside of the railing and shrubbery in front of Sandyford Place. The shrubbery is pretty thick, and the trees were then in full bloom; but by looking through between the openings in the shrubbery I could distinctly see the number of the house in which the light was. It was because of seeing the light in said window at such a time in the morning that I looked particularly to the number of the house. It would be about four o'clock when we passed Sandyford Place; and I know this from seeing St. Matthew's Church clock in Newton Street, when we passed along, and it was then ten minutes past four. There was no one along with me on said morning, excepting my two sisters. I had only half a glass of wine at the marriage, and no spirits nor any other liquor. I heard of the murder of Jessie M'Pherson, at 17 Sandyford Place, on the Tuesday following. I was then in Glasgow, and Mr. Morier and his son were resident there. I did not mention the circumstance of having seen the light in 17 Sandyford Place on said Saturday morning either to my master or his son; nor did I mention it to any person until the Saturday following, when I went to Dunoon, and I then and there told what I had seen to my neighbour servant, Elizabeth, then kitchen-maid to Mr. Morier; I think I also told it to Miss Morier. Elizabeth has now left Mr. Morier's service, but she has a sister in the service of Mrs. Houston, No. 190 Regent Terrace. I remained at Dunoon with my master's family until the end of August, when I returned to town. After my return I made no secret of said circumstance, but told it to a great many people; I never thought of giving any information to the authorities, because I thought it was of no consequence. I cannot tell whether there are one or two divisions of Sauchiehall Street called Sandyford Place. In coming along Sauchiehall Road I saw the name Sandyford Place at the west end of the range of houses, of which No. 17 forms one.

Glasgow, 30 September 1862.

A. Turnbull

AGNES M'LEAN or TURNBULL, aged 22, says—

I am wife of and reside with William Turnbull, an engineer, at No. 86 Renfrew Street, Glasgow.

I have known, for about a year past, that No. 17 Sandyford Place is the house of Mr. Fleming, and I know this from having been told so by some one whom I cannot now remember. I was never in the house. I remember some time ago, probably two or three months since, of passing along Sauchiehall Road in company with my sister Margaret, and of telling her that No. 17 Sandyford Place was Mr. Fleming's house. I had no object in telling her this. I was not present at my brother James's marriage, but I know that he was married on the 4th July. I remember my sisters Margaret, Jessie,

and Peterina coming home from my said brother's marriage. I cannot remember whether I was told by any of my said sisters on their return home that morning that they had seen a light at 17 Sandyford Place, but I remember of hearing them saying so when the murder of Jessie M'Pherson first appeared in the newspapers, and often afterwards. It was on the Tuesday after the marriage that I first heard of the murder, and on that forenoon I passed along Sauchiehall Road, in front of Sandyford Place, in company with my sister Margaret. In so passing along I pointed out Mr. Fleming's house to Margaret, and she said that was the house where she had seen the light on the Saturday morning preceding. A. Turnbull

Glasgow, 30 September 1862.

William Turnbull, aged 24, says— W. Turnbull

I am an engine-fitter, and I reside in Renfrew Street (No. 86), Glasgow.

My brother-in-law, James M'Lean, was married on Friday the 4th July, being the Friday immediately before the Monday on which the murder at 17 Sandyford Place was discovered. I learned of the murder on the Tuesday morning, and on my way home to breakfast I bought a newspaper containing an account of the discovery.

I read the account of it to my wife and her sisters, Margaret and Jessie. I cannot charge my memory whether, when I had finished reading the account of the murder, any of my sisters-in-law mentioned the circumstance of having seen a light in the house, 17 Sandyford Place, when they were returning from their brother's marriage on the preceding Saturday morning; but I know that I was made aware of that circumstance shortly afterwards.

Glasgow, 1 October 1862.

Isabella M'Riven or M'Kay, aged 60, says— I. M'Kay

I am wife of and reside with George M'Kay, labourer, No. 9 Carrick Street, Glasgow.

Colin Campbell lodges with me, and has done so for about the last ten months. I sometimes see him writing letters. I think the Sandyford murder was found out on a Monday morning, and I heard of it on the Tuesday. I mind of Colin writing a letter before then; I think he wrote it on the Saturday previous. I have no means of fixing Saturday as the day, except this—that on the Tuesday when I heard of the murder Colin asked me if I minded when he last wrote to his father, and I said it was the previous Saturday. I still believe he wrote it on the Saturday. I saw him write it in the kitchen, and, I think, on the table. I can't say I saw the date on the letter. After writing the letter he took it with him to post, as he said; and he left the house about seven o'clock, his usual time. He did not, on his return, tell me he posted the letter; he did not refer to it till said Tuesday. I was not aware, when he wrote the letter, to whom

I. M'Kay

it was going; and he did not tell me for whom it was until the Tuesday. After inquiring at me when he wrote the letter he said there was "a case" on his beat; a murder in Sandyford Place; and that, on the previous Saturday night, he saw two women at the door of the house where it was committed.

I don't think Colin wrote any other letters about that time. He wrote very seldom, so far as I saw.

Glasgow, 1 October 1862.

A. M'Lean

ALLAN M'LEAN, aged 20, says—

I am a blacksmith, and reside at No. 8 Dock Street, Kelvinhaugh, in or near Glasgow, with Hector Currie, labourer.

I know Colin Campbell, and have known him since April last. On Saturday night, 5th July, about half-past eight or quarter to nine o'clock, when going westwards along Sauchiehall Street on my way home, I met Campbell about the corner of Sandyford Place and Elderslie Street. We went down Elderslie Street and round by the back of Sandyford Place and Fitzroy Place, into Kelvingrove Street. I parted with Campbell at the upper corner of Kelvingrove Street. I left him standing at the corner, and I went down the street into Kelvinhaugh Street and home, and I did not see him again that night. When we were going along by the back of Sandyford Place Campbell took a letter out of his pocket and said he was going some place with it. I don't know that he said the post office; but he said he was going some place with it, and he told me to wait, that he would not be two or three minutes; and he turned back into Elderslie Street, and I waited where I was. I don't recollect which way Campbell turned when he got into Elderslie Street; I did not notice. About three or five minutes he returned, and we walked along by the back of Sandyford Place and Fitzroy Place into Kelvingrove Street, as above. I did not handle the letter, nor see the address, nor did Campbell tell me the address. I did not notice whether there was a postage stamp on it.

I have no recollection of standing with my back against the railings in front of Sandyford Place that night. I have no recollection of passing along the front of Sandyford Place at all that night; I am sure I did not do so. I did not see Campbell examine any of the front doors of Sandyford Place; and I did not see two women, or any woman, standing at any of the front doors in Sandyford Place; and I did not pass any woman about the corner of Elderslie Street; at least, I don't remember passing any.

On the Tuesday or Wednesday after I met Campbell in the Anderston police office, and he there asked me if it was the Friday night or the Saturday night that I was with him. He said that he was not quite sure, but thought it was Saturday. I remembered quite well that it was Saturday night, and I said so to him; and he said, "I was just thinking that, but was not quite sure."

What makes me sure it was Saturday night is that I dropped work early that day, about a quarter-past two; and I left home about five

o'clock, and went into the Gallowgate to a shoemaker's shop (Paterson by name), after which I went into a spirit shop with a fellow-workman, James M'Innes, where we had some ale. It was after coming out of that shop, and when on my way home, that I met Campbell. A. M'Lean

I think the spirit shop is in Argyle Street. Sauchiehall Street was not my nearest way home, but I went that way purposely to see Campbell in order to ask when I could see him next day (Sabbath) to have a walk. I have no mind of asking him when I could so see him; there was no appointment made between us for next day, and I did not see him next day.

Campbell could not have gone to Sandyford Toll and posted his letter within the time he was away from me, as above.

Glasgow, 6 October 1862.

ELIZABETH MURRAY, aged 55, says— E. Murray

I presently reside with John Murray, a foreman shoemaker in Buchanan's Institution, in James Street (No. 23), off Greenhead Street, Glasgow.

For two years immediately preceding Martinmas, 1861, I was cook to Mr. John Fleming, accountant, residing in Sandyford Place, Glasgow. During the first six months of my service I was in the house at Sandyford Place, and the remaining eighteen months I was at the house at Dunoon, and during the winter months of that period I was there alone. During the six months I was in Sandyford Place old Mr. Fleming lived there; and occasionally, during the summer months, when I was at Dunoon, he would come down and remain for a day or two at a time. He never came to Dunoon during the spring or winter months, when I was there alone. During the whole course of my service old Mr. Fleming never used nor attempted to use any improper liberties with me, and he never made any approaches to me. My neighbour servants were Elizabeth Halliday, Katy (Boyé?), and Janet Kay. I never saw him use any liberties with any of these servants, and they never made any complaint to me of his having done so. He always behaved himself in a correct and gentlemanly manner towards the servants. I have seen him coming to the kitchen to warm himself, but he did not go a great deal about the kitchen while I was there. He never said much, and his language was always becoming. So far as I saw, he was a very temperate-living man, and I never saw him the worse of liquor.

Declares further—I never heard any servant who had been in Mr. Fleming's service complain of the old man having made improper advances to them.

Hamilton, 7 October 1862.

JANET KAY, aged 39, examined. Janet Kay

I am servant to and reside with William Gebbie, writer, residing at Netherfield, in the parish of Avondale, and county of Lanark. About ten months ago, Martinmas, 1861, I was in the service of Mr. John

Janet Kay

Fleming in Sandyford Place, Glasgow. I was in his service from Martinmas, 1860, till Martinmas, 1861. During the first six months of that time I resided with the family in Sandyford Place, and during the last six months I was with them at the coast. During all the time I was with them Mr. Fleming's father, James Fleming, stayed with them. He stayed mostly in the town house while we were at the coast, but occasionally came down and stayed for a few days.

Mr. James Fleming and I were always on good terms, but he never, on any occasion, used any freedom with me. He never used any improper liberties or language towards me. I never heard him use any such to any of the other servants. I never even heard any report of his doing so. He was, so far as ever I saw, a well-conducted man.

I never was alone with him in the house. The family were always there when I was.

Jessie M'Pherson came to the town house when we went to the coast. I never spoke to her. We were away to the coast before she came, but I heard her spoken of frequently. During the time we were at the coast Mr. James Fleming came down three or four times and stayed for a few days at each of these times. During all these visits Mr. James Fleming was continually talking about Jessie M'Pherson; "Jess, Jess," was never out of his mouth. He praised her greatly for being a good servant, and for taking great care of everything. I never heard him talk so much about any one as he did about her. I never heard him say that he liked her or anything to that effect, but he was always praising her. At the end of these visits to the coast he always took away with him some flowers or gooseberries or other fruit, saying that "this was for Jess." We then stayed at a cottage about half-way between Innellan and Dunoon. My neighbour servant there was Eliza Murray. I do not know where she is now.

Old Mr. Fleming was of a remarkably inquisitive disposition. Nothing could go on in the house without his inquiring about it. For instance, if the door bell was rung in the morning before he was up he would rise and "peep" out at his bedroom door to see what or who it was. He often did this, and things like this. If anything the least unusual took place in the house he was "awfu'" inquisitive and anxious about it.

Old Mr. Fleming was very fond of coming into the kitchen, but the cook who was with the Fleming's when I was there did not like him to come there, and discouraged his doing so. He seldom used to come at night, however, excepting once or twice when he came down on the Saturday nights to wash his feet. The cook was Barbara Kerr, now in Mr. Jack's Temperance Hotel, Bridge of Allan.

Glasgow, 6 October 1862.

Ann Ross

Ann Ross, aged 46, says—

I am a domestic servant to Ann Cowan, and I reside with her at No. 62 Bath Street, Glasgow.

About six years ago I was in the service of Mr. John Fleming,

at 17 Sandyford Place, for six months during the winter season. Jessie Miller was my neighbour servant. Mr. Fleming's father was then resident in the house. He came very little about the kitchen. He never used liberties of any kind with me, nor attempted to do so, and I never saw him behave in an improper manner towards Jessie Miller. His language was always proper and becoming. He was always very kind and civil. I know none of Fleming's servants excepting Jessie Miller. I never heard of any servant towards whom old Fleming is said to have used improper liberties. I never saw the old man the worse for liquor. **Ann Ross**

Glasgow, 7 October 1862.

JESSIE MILLER, aged 29, says— **J. Miller**

I am servant to and reside with Thomas Wingate, boat-builder, Whiteinch, near Partick.

For two years and a half prior to June, 1856, I was servant to Mr. John Fleming, and during the whole of that time in the house in 17 Sandyford Place, and during the last six months old Mr. Fleming lived in the house. During that time old Mr. Fleming's conduct, so far as I saw, was correct; his conversation and demeanour were such as a master would show to a servant; especially he neither used nor attempted to use liberties with me, or with the other servant (Ann Ross) in my presence, nor did Ann Ross ever complain to me of any such. I had very little conversation with him, and the only remark I passed upon his conduct or habits was that when the door bell rang he was always anxious to know who it was. He very seldom came into the kitchen. I never saw him tipsy. I was never in the house alone. I can't say whether he was of a kindly disposition. He never entered into familiar talk or joked with me, or with Ann Ross, so far as I saw.

Glasgow, 7 October 1862.

Mrs. JESSIE WALKER, wife of James Walker, Grocer and Provision Merchant in Elderslie Street, Glasgow, says— **Mrs. Walker**

About 5 p.m. on Monday the 7th July I was looking over the window of our house in Elderslie Street when I saw a police constable running into my husband's shop, a few doors above the house.

I thought that perhaps some of my children had been about some mischief, and I immediately left the house and ran down to the shop.

By the time I got there the policeman had left, and I learned from the shopman that he was wanting a candle, as Fleming's servant had been got dead in a cellar, or some other place, the door of which had been locked.

I asked the shopman if he had given the constable lucifer matches, and on his replying in the negative, I got a box of matches and ran round to Sandyford Place. I found Mr. John Fleming at the front door as if in the act of shutting it.

Mrs. Walker When he saw me he opened the door, and I found standing in the lobby old Mr. Fleming, Mr. John Fleming, and John Fleming, junior; Mr. Chrystal, the grocer, and a gentleman whom I did not know. Mr. John Fleming said to me this was a fearful thing. I asked the particulars, and he told me the servant had been got dead in the room or laundry, with the door locked; that he had got the key of the pantry door, and with it he opened the room door, and, strange to say, that when he put the pantry key into the lock of the room door the key of the room door had fallen out inside of the room. I heard the old man say that the last time he had seen the servant Jess was on the Friday night, about half-past nine o'clock, and that he found her door locked on the Saturday morning. I asked him, seeing she had stopped so long away, if he had never thought of looking after the girl. He said "No."

I then asked if he had not thought of getting the door opened and looking whether her chest was away, or whether the house had been robbed. The old man did not answer (whether from not hearing me I cannot tell), and his son said to him, "Mrs. Walker is asking you so, so," repeating my question; on which the old man replied, "No, I never thought." I asked if he had heard any noise, and he answered, "Ay, I heard some moans." I then asked when, and he replied, "It would be about four o'clock on Saturday morning." I said, "Did you no' rise when you heard the moans," and he answered, "No; I rose on my elbow and looked my watch, and it was just four." I said when he was upon his elbow could he no' have got up and cried down what was the matter.

The old man did not answer this question, and his son then said, "Mrs. Walker is asking, did you no' think of crying down to see what was wrong," and the old man answered "No, I didna think." His son then asked him if he was sure this was on Saturday morning at four o'clock, and he answered, "Yes." I said would it no' be Sabbath morning; on which the old man said, "No, no; I was twice at the kirk on Sabbath." Well, I said, I thought I saw her on Saturday night between six and seven o'clock, at our shop door; on which the old man said, "Na, it would be Friday night, Mrs. Walker, it could na be Saturday, for I didna see her that day." I said, "Well, if it was not Saturday, it could not be Friday, but it might be Thursday"; and my reason for saying it could not be Friday was that I had been at the coast that day, and had not returned to Glasgow till long after our shop was shut.

The above is as nearly as I can state what took place in Mr. Fleming's house on the afternoon of Monday the 7th July, and the statement I have already made to the Fiscal in my previous precognition, as to the state in which the house was that afternoon, is correct.

I have to-day read the letter signed "J. N.," which appeared in the *Free Press* of Saturday last. I do not know who wrote that letter, and I never saw it until to-day.

The following statements therein are untrue, and I never made such statements to any one:—

"On their telling me that the body of Jessie M'Pherson had been found below, I remarked that I had seen her on Saturday afternoon;

on which old Fleming observed, 'Na, Mrs. Walker, it maun have been Friday afternoon.' 'But, Mr. Fleming,' I said, 'Why Friday afternoon?' He made no reply, but he gave a look which flashed conviction on my mind that he knew too well that neither I nor any one else had seen her alive on Saturday, a conviction which every succeeding day has served to strengthen. Mrs. Walker

"We then went downstairs; the floor was quite damp, and bore evident marks of recent washing.

"I afterwards learned that in two hours later it was quite dry, but I did not see it dry, having left the house a few minutes after."

Neither is it true that I told the Fiscals the foregoing particulars of what occurred in Fleming's house on the Monday afternoon. When they called upon me on the Saturday before the trial, all that I was asked and told them was about seeing a woman passing Miss Dykes and me in Elderslie Street about eleven o'clock on the Friday before the murder, and going into Sandyford Lane. On the day they called I was confined to bed, having recently been delivered of a child, and after I had told them about said woman I said I hoped they would not trouble me, for I was not able to rise out of my bed, and far less to go to any Court.

4 October 1862.

William Gilchrist, aged 52 years, Grain Merchant, in Hope Street, Glasgow, and residing at No. 379 St. Vincent Street, Glasgow, says— W. Gilchrist

I have all my lifetime been connected with Anderston United Presbyterian Church, and have been an elder of the church for about twenty-four years. Mr. James Fleming has been connected with said church as far back as I can remember, and he is in full communion with the church. In the year 1852 the now deceased William Jamieson was elder of the district in which Mr. Fleming was then resident. At the meeting of session held on the 2nd April, 1852, the minute of which I now see, I was present, and remember Mr. Jamieson mentioning that Mr. Fleming had called upon him in a very distressed state of mind and told that a woman had had a child to him, and that he was anxious to submit to the discipline of the church for the sin of which he had been guilty. Accordingly at said meeting, as the minutes bear, a committee was appointed to deal with Mr. Fleming. I was one of the committee, the only other member being the said now deceased, Mr. Jamieson, and we met Mr. Fleming in Mr. Jamieson's office some days afterwards; he confessed his guilt and seemed to be painfully conscious of the sin he had committed; he could scarcely speak to us, and expressed very great sorrow and repentance. I have a vivid recollection of the interview, and must say that I never, in the whole course of my experience, have witnessed such apparently genuine sorrow. The committee were so satisfied on the point that on their reporting to the session, it was considered unnecessary to do anything more than rebuke and admonish him. I see from the minutes that he is named "William" Fleming, but

W. Gilchrist

the name William is a clerical error; there is no doubt of that fact; but for his own information it is very likely the session would never have become aware of the fact, as previous to that he had made provision for the support of the child.

With the exception of the circumstance above mentioned, I know nothing whatever affecting his moral character, and consider him an upright and consistent member of the church.

Excerpts from Session Minute-book, Anderston United Presbyterian Church.

2 April 1852.

The session met and was constituted with prayer by Moderator—Present with him, Messrs. M'Ewan, Jamieson, Govan, Scott, Napier, M'Gregor, Kerr, Nelson, and Hunter.

Inter Alia.

William[1] Fleming's case was stated by Mr. Jamieson. Messrs. Jamieson and Gilchrist were appointed a committee and to report.

Gavin Struthers,
Moderator.

8 April 1852.

The session met in church between sermons, this being Sacramental Feast; constituted with prayer by Moderator, and present with him Messrs. Gilchrist, Jamieson, Brown, Kerr, Napier, M'Ewan, Ewing, Scott, M'Kinnon, Cumming, M'Gregor, Govan, and Nelson.

Inter Alia.

Compeared William[1] Fleming, who having confessed the sin of fornication with Janet Dunsmore, showed becoming contrition, and having been rebuked by Moderator was restored to the fellowship of the church.

Gavin Struthers,
Moderator.

The foregoing are certified by me, as true and correct extracts from the session minute-book of the Anderston United Presbyterian Church, Glasgow.

J. Logan Aikman,
Moderator.

Glasgow, 4 October 1862.

Rev. John Logan Aikman, Minister of the Anderston United Presbyterian Church, Glasgow, says—

Rev. J. L. Aikman

I have been minister of said church since February 1856; my predecessor being the late Dr. Gavin Struthers. Mr. James Fleming is

[1] See evidence of William Gilchrist *supra*.—Ed.

a member of said church, and in full communion, both now and at the date of the murder of Jessie M'Pherson. Mr. Robert Nelson is the session clerk; in his absence I produce the minutes of session, and there have been excerpted therefrom two minutes of meeting, dated respectively 2nd and 8th April, 1852, and which have now been compared by me with the original minutes, and certified as true and correct copies. Rev. J. L. Aikman

Since I became minister of the church I have known Mr. Fleming; he is one of the most regular attenders at public worship, and earnest and attentive during the services. I have frequently walked to church with him, and conversed with him; I formed the opinion that he was an eccentric old man; I thought him staid and respectable, and his outward deportment, so far as I had opportunity of observing, was perfectly correct.

Shortly before the trial of Mrs. M'Lachlan I went to his son's house at Dunoon, for the purpose of seeing Mr. Fleming. I had a long private interview with him, during which he gave me precisely the same account of his actings from Friday the 4th till Monday the 7th July last, as I heard him give in his examination in court at the trial.

He said he had been praying for a time. I said I understood he was a man of prayer, and therefore not surprised to hear him say so; he replied, "Ay, but yae prayer." I looked him sternly or searchingly in the face, and asked what that was, and he answered, "That the Lord might strengthen my memory, that I may tell a' I ken of this awfu' business." He said, "I'm feared for my memory, for I lay things out of my hand the yae minute and forget them the next." I then, still looking him sternly in the face, said, "What about your conscience in this matter?" he said, "I'm perfectly clear about that; I hae many sins to answer for, but no' that." I said, "Would you feel perfectly comfortable in your mind if summoned from the witness box to that judgment bar where the secrets of the heart are known?" when he drew himself up with manifest indignation and surprise, and said, "Perfectly, so far as that's concerned."

The impression produced on my mind by the whole conversation was, that he looked upon the murder with a feeling of horror; but manifested entire innocence as to the murderer, and entire want of knowledge of any of the circumstances attending the commission of the crime.

I visited him again last Tuesday; I did not speak much of Mrs. M'Lachlan's last statement, but with reference to it he spoke of the depravity of the human heart, and expressed his indignation at such statements regarding him having been made. He asked me about the public meeting in Glasgow on the previous night; I told him there was likely to be a petition, very numerously signed, sent to the Secretary of State, craving a respite; on which he said that he wished and prayed earnestly that the Lord would gie her time that a' might be cleared up, or that she might be led to make a confession to clear him.

4 October 1862.

P. M'Kinnon

PETER M'KINNON, aged 58 years, Cabinetmaker, residing at 76 Carrick Street, Glasgow, says—

I have been connected with Anderston United Presbyterian Church all my days, and have been an elder for nearly twenty years. From my earliest recollection I have known Mr. James Fleming, and have been intimately acquainted with him; I never heard anything against his moral character with the exception of the sin for which he sought and submitted to the discipline of the church in the year 1852. I was present at the meeting at which he was rebuked; his manner was indicative of great sorrow and repentance. I consider him a consistent and upright member of the church. He is regular in his attendance at public worship.

Edinburgh, 4 October 1862.

R. Nelson

ROBERT NELSON, aged 52, Bookbinder, residing at St. George's Road, Glasgow, declares—

I am an elder of the congregation of the Rev. John Logan Aikman, minister of the United Presbyterian Church, Anderston, Glasgow.

I know James Fleming, who resides in his son's house at Sandyford Place, Glasgow. Looking at him casually, a person might scarcely suppose that he was 87 years of age. If I had nothing to guide me, and were asked his age, I might guess him to be a person of about eighty years of age, but I have no reason to doubt that he is eighty-seven, because about six months ago he retook his seat in said church. I am also a manager of said church, and in that capacity I was present at said seat-letting, and I remember of his then saying that he was the oldest member of the church, and that he was eighty-seven years of age.

About ten years ago I became session clerk, and I can say that during these ten years past there never was any charge of any kind made against James Fleming.

Previous to these ten years, and as I think about April, 1852, there is one charge against him in the church records. I believe it is the only one. I believe he has been a member of said congregation as far back as I can remember anything; certainly for the last twenty or thirty years. I cannot speak with absolute precision as to dates, because I am being examined in Edinburgh, and the records are in Glasgow. During the long period now referred to, with the single exception now to be noticed, his character has been unexceptionable. My predecessor in the office of session clerk was a Mr. Hunter, who, if alive, is not now in connection with our church. Just before Mr. Hunter went out of office, the records show, that one of the elders mentioned "the case of Fleming to the session," as having had an illegitimate child by his servant, and that he was dealt with in the ordinary way in such cases, a subsequent minute showing that he was absolved. My present impression and belief is, that Fleming was his own accuser, and that his offence had not come to the knowledge

of the kirk session on the complaint or information of any third person. I believe he went to one of the elders, and stated the circumstances himself. I cannot say what induced him to do so. I cannot say that he said it lay upon his conscience, and that he invoked church discipline. I understand that he went to the elder of his district, Mr. William Jamieson, who is now dead, but I have no idea what passed between them. I do not remember ever having heard that Fleming was told by any of the elders, that as there was no *fama* connected with his case, no action by the kirk session was required; indeed I do not think that this last occurred. I remember nothing more of the case than what the records show, and of Fleming having been his own accuser. I have endeavoured to recollect how I acquired my present impression and belief, as to his having been his own accuser, and all I can say is, that I must have been told it by some fellow-elder; but I cannot remember when or by whom. **R. Nelson**

With the exception of the incident now mentioned, I know nothing at all exceptionable in the character of Fleming. He was regular and attentive at the church services. I had no intercourse with him separate from the church. I might walk part of the way from the church with him, and bow to him in the street, or the like; but I had no further intercourse with him; and, therefore, I can only say that I believe him to be a respectable man, and that I know nothing against his character, with the exception above mentioned.

I should say that in the church records he is called William (in the minutes above referred to), but this must be a clerical error, because I was present when he was admonished.

Glasgow, 4 October 1862.

JANET BELL, aged 35, says— **Janet Bell**

I am servant to and reside with the Rev. John M'Coll, 11 Annfield Terrace, Partick.

Seven years ago last summer I was in the service of Mr. John Fleming, at 17 Sandyford Place. I was there for six months; the summer and autumn months. Mr. James Fleming was staying with the family then. Mr. John Fleming and family were at the coast, and from the Friday till the Monday the house in Sandyford Place was only occupied by the old gentleman and myself. There was no other servant. For about five months we were that way. During the whole of that time the old gentleman conducted himself, so far as I saw, with the greatest propriety, except that once or twice, not so often as half a dozen times, he came home tipsy, but always before ten o'clock at night. This happened only when Mr. John Fleming and the family were at the coast, *i.e.*, between a Friday and a Monday. The old man did not interfere at all with kitchen matters, but when the door bell rang he always liked to know who it was, and what they were wanting. On wet nights also he used to come occasionally to the kitchen and warm his feet. On these occasions he always conducted himself with propriety before me, and generally went to bed between nine and ten. The family returned from the coast about

Janet Bell a week before the Sacrament [end of October]. I left them on 11th November. I had opportunities of seeing the old man's conduct before the other servant, after the family's return from the coast, and I never witnessed any impropriety, and the other servant (Jessie Miller) never complained to me, or stated to me that he conducted himself with anything but propriety. I did not consider him inquisitive, except when anybody rang the bell as above. For two or three days while the old man and I were in the house alone, I was unwell, and he was very kind to me then.

Glasgow, 4 October 1862.

E. Halliday ELIZABETH HALLIDAY, aged 25, says—

I am servant to and reside with William Russell, warehouseman, No. 17 Kew Terrace, Glasgow.

For about eighteen months previous to July, 1860, I was servant to Mr. John Fleming, and during that time the old gentleman lived with the family. For two or three weeks at a time I lived in the Sandyford Place house while the family were at the coast; and from a Friday till a Monday the old gentleman and I were the only occupants of the house. On these occasions the old gentleman always conducted himself with propriety; I never saw anything else. He went a good deal about the kitchen, and at nights he would sit at the fireside beside me, as he said, just for company. His conversation, both then and at other times, so far as I observed, was correct. I never saw him tipsy. He generally went to bed about nine o'clock, and rose between eight and nine. He always conducted himself properly before the other servant, and the latter never made any complaints to me about his conduct.

Glasgow, 4 October 1862.

M. M'Intyre MARTHA M'INTYRE, servant to Mr. Stuart, No. 7 Burnbank Gardens, Glasgow, says—

I was in Mr. Fleming's service from the 12th November to 4th January, both last, at his house in Sandyford Place. Jessie M'Pherson was my neighbour servant. The old man used to come much about the kitchen and talk with us in a friendly way. He never used, or attempted to use, any liberties with me, and I never saw him do so to Jessie. She never complained to me about him. He was of a kind disposition, and looked to see that we were comfortable. I never heard of him using any liberties with any of the other servants. He was of a staid, quiet disposition.

Dunoon, 4 October 1862.

J. Thomson JAMES THOMSON, Innkeeper, Dunoon, says—

For five years previous to Whitsunday last I was gardener to Mr. John Fleming, and resided, summer and winter, at his house, Avondale Lodge, Dunoon. His father was in the habit of coming down to

Dunoon for a day or two occasionally in the summer months, while the family were there. He sometimes came in the spring months, when no one except a female servant and I were at the house. I never saw him use any liberties with the female servants, nor use any improper language. He went a good deal about the kitchen, and treated all the domestics very kindly, and was looked upon by the female servants as a kind of father. I never heard any of them complain of the old man behaving in any indecent way towards them. I never saw him the worse of liquor, though I have known him to take a glass of whisky now and again. I was cited to appear at the trial of Mrs. M'Lachlan on her behalf, and was in attendance, but not called. What I was to speak to was the circumstance that about three years ago the deceased Jessie M'Pherson told me that the old man wanted to marry her, and said he would give her all he had in the world. I observed that the old man behaved even more kindly towards her than the others, but I never saw him take any liberties with her. The prisoner and Jessie M'Pherson were fellow-servants at Dunoon during part of the time I was there, and I have heard the prisoner joking with the deceased about the old man. I have also heard the old man say that he had need of a wife to look after him in his old age. **J. Thomson**

Dunoon, 4 October 1862.

Ann Gilbert, Cook to John Fleming at Avondale Lodge, Dunoon, says— **A. Gilbert**

I have been in Mr. John Fleming's service at Dunoon from November, 1861. I never was in the Glasgow house. During last winter old Mr. Fleming was two or three times at Dunoon, and on each occasion he remained for two or three days. There was no one there except the gardener and me. He never used, or attempted to use, any liberties with me. His conversation was always correct. He was of a very kindly disposition, always friendly, and very like a father. He has been resident in Dunoon since his liberation from prison, and has since then treated me in the same kindly way he did in winter.

Dunoon, 4 October 1862.

Mary Shaw, Housemaid to John Fleming, says— **M. Shaw**

I have been in Mr. Fleming's service since Whitsunday last. I was never in the house in Sandyford Place, but went direct to Dunoon. The old man was at Dunoon for two or three days, some time before the murder of Jessie M'Pherson; and since his liberation from prison he has been resident there. He never behaved to me, or in my presence, in any other than a becoming way. He never attempted to use any liberties with me, or make approaches of any kind. He is of a very kindly disposition, and looks to the comfort of the domestics. He goes much about the kitchen.

Glasgow, 4 October 1862.

A. S. Knowles

ALEXANDER SHERIDAN KNOWLES, aged 35, says—

I am a flesher and cattle dealer, at 1 Macfarlane Street, Gallowgate, and reside at No. 4 Sidney Street, Gallowgate, Glasgow.

Between eleven and twelve o'clock of Thursday last, 2nd current, William Ramsay, flesher, King Street, and Mr. Roberton, came into my shop, and we all went into an adjoining public-house, where the Sandyford case was discussed. In the course of conversation I remarked that I knew a Mr. Ritchie, who had been told by a party who was returning home on the morning of the murder (Saturday), about four or five o'clock, that he (the party) saw an old man, resembling Mr. Fleming, at the door, 17 Sandyford Place. Mr. Ritchie told me this about six weeks ago, in my own house. He told me the name of the party, but I forget it; it was a short name; and Ritchie said that the party did not mention the matter to the authorities, because he did not want his name mixed up with the case. Ritchie also said he knew the deceased, Jessie M'Pherson, when in Falkirk. Ritchie calls upon me frequently. He called yesterday, and denied that he told me about the party seeing the old man. Both he and I had had visits before this from Mr. Roberton, concerning the matter. I said to Mr. Ritchie that if he thought Mrs. M'Lachlan's life was in jeopardy, he should state the party's name; but he insisted that he never told me about the party. Interrogated, declares—I am not certain that it was Mr. Ritchie that told me the above; but the conviction in my own mind is that it was Mr. Ritchie. There was no person present when I received the information. I can think of no other person but Mr. Ritchie who could have told me. I have found Mr. Ritchie only middling truthful in matters generally.

Glasgow, 4 October 1862.

J. Ritchie

JOHN RITCHIE, aged 29, says—

I am a cattle-dealer, and reside at 85 Bellgrove Street, Duke Street, Glasgow.

I know Mr. A. S. Knowles, and have been several times in his house. I have no recollection of stating to him, on any occasion whatever, that I knew a party who saw an old man, resembling Mr. Fleming, at door 17 Sandyford Place, about four or five o'clock on the morning of the Sandyford murder (Saturday), or of making any similar statement. I have no recollection of conversing with Mr. Knowles about the murder at all. I don't remember being in Mr. Knowles' house about six weeks ago. I saw Mr. Knowles last night; he did not then, or on any occasion, refer to said party, or say to me that if I believed Mrs. M'Lachlan's life to be in jeopardy, I should state the party's name who saw the old man; nor did I deny that I had informed him about said party. In point of fact, I don't know any party who saw an old man, resembling Mr. Fleming, at said door; nor did I ever hear of such a thing until now.

I knew the deceased Jessie M'Pherson when I kept a shop at Falkirk; she used to come to the shop.

Appendix III.

(4) Letter from Mr. Young to the Right Honourable Sir George Grey, Bart., M.P. Mr. Young

Edinburgh, 15 May 1863.

Sir,

As you have seen proper to assent to the motion for the production of the evidence which was taken before me in this case, I have to submit for your consideration whether the production ought not to be accompanied with a statement of the manner in which that evidence was taken.

I acted upon the verbal request of the Lord Advocate, made, as I understand, at your desire; the purport of the request being that I should see and hear such witnesses as the prisoner's agents thought proper to bring before me, and report the result. It is, I think, proper that it should be distinctly understood that I was not invested with authority or legal powers of any kind. I had no power to compel the attendance of a witness or to administer an oath. Indeed, any inquiry in a criminal case after trial, with a view to enable a Minister of the Crown to advise the Sovereign with respect to the disposal of the prisoner, must be extra-judicial.

The manner in which I proceeded was this: I informed the prisoner's agents, at an interview, that I should proceed to Glasgow, and there see and hear such witnesses as they thought proper to examine; but that I could not compel any one to attend for examination, and that the examination of such persons as chose to come could not be taken in public or upon oath, the proceedings being extra-judicial. My duty, as I conceived it, was to see that the witnesses brought forward were fairly and fully examined, and notes of their evidence taken and reported to you.

To aid me in the discharge of this duty I thought it right that the Procurator-fiscal, who was necessarily well acquainted with the whole case, should attend the inquiry, and not only put or suggest questions to the various witnesses, but also himself bring forward any witnesses he thought proper; and he attended accordingly at my request.

Sir Archibald Alison was good enough to give me the use of his own rooms in the County Buildings of Glasgow, and I there received, and heard examined, and, so far as I thought proper, examined myself, the various witnesses who were brought to me by the prisoner's agents or the Fiscal, and notes of their evidence were taken and transmitted to you. There was no attempt at order or arrangement in taking the evidence.

The witnesses were taken as they came, and they were examined, and their evidence noted as for the information of those who were acquainted with the prior proceedings in the case. After what I have said, I need not add that no one was put upon oath.

Several of the witnesses had been previously examined before the Sheriff, in the course of an inquiry conducted by him with a view to test the truth of the prisoner's written statement, and copies of their examinations having been furnished to me, and communicated to the prisoner's agents, these witnesses were examined before me in supplement only, and with reference to their examinations before the

Mr. Young Sheriff. It was my duty, as I conceived it, to read and consider the precognitions which had been taken before the Sheriff, the whole of which were sent to me. I did not doubt that they had been fairly taken, and the prisoner's agents, to whom I communicated them, so far as I judged proper, were, I believe, satisfied that they had been so.

The examinations which took place before me were thus much shortened, and were in truth regarded as merely supplementary to those which had been previously taken by the Sheriff.—I have, &c.,

G. Young.

The Right Hon. Sir George Grey, Bart., M.P.,
&c., &c., &c.

APPENDIX IV.

Statement by Mrs. M'Lachlan's Agent regarding the alleged Confession made by her to him.

(*From the Glasgow Herald, 6th July*, 1863.)

4th July, 1863,
145 West George Street, Glasgow.

Sir,—As I have received an intimation that you are about to publish a hearsay version of a certain statement made by Mrs. M'Lachlan to me, and wish, if it is to be published, it should be published in a correct and authentic form, I beg to request that you will print it in the shape enclosed, as I have altered and adjusted it, instead of in any other. Professional scruples, of which your readers are aware, have hitherto prevented my making it public; but I have made up my own mind that it is necessary and just, and I shall be responsible for its appearance.

I wish further to explain that, although I have in several places thrown the statement into the form of direct interrogatory and answer, I do not wish to pledge myself to verbal accuracy in these places, but have intended, by adopting this form, to convey not only the substance but the manner of the communication.—I am, sir, your obdt. servt., J. A. Dixon.

THE STATEMENT.

When the trial of Mrs. M'Lachlan was concluded, and after the Home Secretary had ordered the inquiry by Mr. Young, but before it began, Mrs. M'Lachlan's agents applied to the Prison Board for permission to confer with the prisoner alone as to her case. The request was granted, upon condition that only one of the agents should obtain admission. Mr. Dixon was appointed to confer with the prisoner, the object of the agents being to ascertain whether she could give any information which would assist them in dealing with the numerous

reports current after the publication of the "Statement," and particularly a report which was persistently made, and which came to them through many different channels, viz., that old Mr. Fleming had been seen on the door steps in front of the house between four and five on the morning of the murder. When Mr. Dixon waited on the prisoner he asked her whether she was aware that the old man had been out in front of the house, mentioning at the same time that they had hitherto been unable to discover any ground for the rumour. Mrs. M'Lachlan answered that she did not think there was any truth in it, and that they need not trouble themselves in hunting after the rumour further, as she did not think it was possible it could be true.

Mr. Dixon then proceeded to ask her a number of questions as to details of the old man's movements, with the view of ascertaining whether she had any particular reason for saying that the rumour could not possibly be true. She showed some little hesitation in answering these questions, preferring to turn aside to talk about the incidents of the trial, particularly criticising the portraits in the pamphlet account of the trial, and trifling with other irrelevant topics of that kind. She appeared to Mr. Dixon to be hysterical; sometimes crying and sometimes laughing or giggling. There was nothing, however, about the peculiarities of her behaviour to indicate that she was insane, or that she did not know perfectly well what she was speaking about. On resuming the questions as he could get her to attend to him, he put some such question as "Where was the old man at this time?" After a little hesitation she looked in his face laughing, and said, "I may just as weel tell ye that the auld man wasna there at a'." And on the question being repeated, she explained that she meant to say that she had not seen the old man at all that night. Mr. Dixon then asked her, "Do you mean to say that you did not see the old man sitting in the armchair when you went down to the kitchen?" She said, "No; I did not go down to the kitchen; I did not go in by the front door at all." "Then how did you enter?" She said, "By the back door," and that "she had not been upstairs at all that night." "Do you mean to say that the old man did not send you out for whisky?" She answered, "No—and I was not out for whisky at all." "But," said Mr. Dixon, "Mrs. Walker and Miss Dykes saw you out? What were you doing out?" She answered that when these two people saw her she had not been in the house at all, and was then going to it for the first time.

On being asked if she had been anywhere else after leaving Mrs. Macgregor,[1] near the Gushet House, a little after ten o'clock, she said she had been nowhere but on the road to Sandyford Place. On its being pointed out to her that from the time she left Mrs. Macgregor[1] till she was seen by Mrs. Walker and Miss Dykes, about an hour had elapsed, she still adhered to her statement, and apparently could give no other account of what she had been doing in the interval. In answer to the question, "Who had opened the door to the milkboy?" if she had not seen the old man at all, she stated that she herself had opened the door to the milkboy, and that "the

[1] Mrs. Fraser.—Ed.

old man was in bed at the time," she supposed. On being then asked whether she therefore meant to say that it was she who had committed the murder, she said that she could not tell—that she knew nothing about it. On being requested to explain what she meant by this, as, if the old man did not do it, she must have done it, she went on to say that Jessie and she had been drinking; that there had been a good deal of drink going; that Jessie got sick with the drink, and was lying on the kitchen floor vomiting; that she, Mrs. M'Lachlan, washed the "vomit" from Jessie's face, and brought in blankets and put them over her; that Jessie vomited on the blankets, and she (Mrs. M'Lachlan) afterwards washed part of them; that the blankets were not washed to remove blood stains; and that she then washed up the floor after Jessie began to get better. She then said that from drink and nausea she herself became sick and retched violently, and Jessie (who, she said, was always in the habit of working with laudanum when anything was wrong with her) made her take a large dose of laudanum to stop the vomiting. She then said that the effect of laudanum upon her had always been to take her head and make her delirious; that her husband and her sister could tell that when the doctor gave her a sleeping draught during one of her illnesses, instead of composing her, it had the effect of making her start out of bed and rush about the room, and that they had to hold her (a statement which the husband and sister afterwards contradicted to Mr. Dixon); that the laudanum given her by Jessie produced the same effect, and took her head; that she had no remembrance of any quarrel, or of anything except a confused recollection of Jessie crying, "Jessie! Jessie! what are you doing?" and that she (Mrs. M'Lachlan) was creeping about in the dark on her hands and knees, somewhere, she did not know where. After that she had no recollection of anything whatever till she found the body in the morning; that the old man was not down the stairs that night or morning at all, a statement which she reiterated again and again; that she could not tell whether any other person had been in the house or not. She repeated that she had opened the door to the milkboy, and on being reminded that the old man himself and the milkboy had sworn that it was the old man who had opened the door, she said that she was aware of that, but it was she that did it notwithstanding. She said she remained in the house till near nine o'clock, and that she was so dazed with the drink and the laudanum that she never thought of escaping sooner, and that she left by the back door. No questions were put to her regarding the clothing or the silver plate, and she said nothing about them. Nor did she make any other statement regarding the night's proceedings.

On receiving this communication from Mrs. M'Lachlan, Mr. Dixon told her that he did not know what to make of it, that it placed him in a very awkward position, and that it suggested some doubts as to his continuing to act as her agent. Upon hearing this, the prisoner said that it was all nonsense, that he need not believe a word of it, and that there was not a word of truth in it, and that she only said so to see how he would look. As this statement immediately followed

Appendix IV.

Mr. Dixon's expressed doubt about acting as her agent, he told her that he was afraid that there was some truth in it, and that he would take time to consider how he should act. She then said that she hoped he was not going to mention what she had now told him, repeating that it was all lies, and that the statement read at the trial was the truth; upon which Mr. Dixon explained to her that from his position as her agent he was bound to secrecy, and that she might rest satisfied upon that point. He also advised her that, so long as her fate was in suspense, she ought to keep her own counsel, and be very careful about repeating to any visitors or others what she had said to him, or entering upon the subject at all. She then entreated that her communication would not be mentioned, even to the other agents, a request which Mr. Dixon complied with.

Immediately after this interview with the woman, Mr. Dixon felt it to be his duty to consult two gentlemen, one of them a professional friend in Edinburgh and the other a well-known merchant in this city, with the view of satisfying his own mind on the question whether he could with propriety act for the woman during the impending investigation, after what she had told him. After discussing the question with these gentlemen, Mr. Dixon made up his mind that he was entitled to continue in the case, and could not well desert it at that juncture, particularly as his withdrawal from it, after being in confidential communication with the woman alone, would have drawn down public suspicion upon her case. In the course of last month this statement was communicated to Mr. Fleming's agents; and by Mr. Dixon and them to several eminent and experienced gentlemen of the Faculty, including the Dean. At the Dean's suggestion, and at the request of Mr. Fleming's agents, Mr. Dixon proceeded to Perth, and obtained access to Mrs. M'Lachlan in the Penitentiary, in presence of the governor, the doctor and the matron, and, after representing to her the injustice done to the Fleming family if the old man was innocent, he requested permission to publish the statement communicated to him, or at least that portion of it stating that old Mr. Fleming had nothing to do with the murder. Mrs. M'Lachlan stated in reply that she did not remember having made any statement as to having been drugged with laudanum on the occasion referred to, and positively denied that she had ever made a statement to Mr. Dixon to the effect that Mr. Fleming was not present on the occasion of the murder, repeating her charge against the old man, protesting her entire innocence, and insisting that she had never made any other statement than the one read at the trial.

I have revised and corrected the above, and I certify it to be correct.

J. A. Dixon.

APPENDIX V.

CORRESPONDENCE AND DOCUMENTS RELATING TO THE INTERVIEW BETWEEN MRS. M'LACHLAN AND HER AGENT IN THE GENERAL PRISON AT PERTH.

(*From the Glasgow Herald, 13th August*, 1863.)

Glasgow, August 12, 1863.

Sir,—We shall feel obliged by your inserting in the *Herald* of to-morrow the enclosed correspondence and documents. Mr. Burton's letter was received to-day.—We are, sir, your most obedient servants,

SMITH & WRIGHT.

J. H. Burton, Esq., Advocate,
Manager and Secretary, General Prison Board, Edinburgh.

99 St. Vincent Street, Glasgow,
July 7, 1863.

Sir,—Jessie M'Lachlan, at present a prisoner in the General Prison at Perth, has, we understand, made a communication to the officials of the prison regarding the commission of the crimes of which she was convicted. As agents of Mr. James Fleming, we are desirous that this communication should be made public, and have, therefore, through you, respectfully to request that the managers of the General Prison may be pleased to authorise the officials to make it known to us.—We are, sir, &c.,

SMITH & WRIGHT.

Office of H.M. Prison Managers,
11 Melbourne Place, Edinburgh.

Gentlemen,—The managers of the General Prison at Perth, having now received instructions from the Secretary of State how to deal with the request made in your letter of the 7th July last, transmit to you herewith a copy of each of the following documents, viz.:—

1. Entry in the journal of the governor of the General Prison relating to an interview between convict Jessie M'Lachlan and her agent on 19th June, 1863.
2. Memorandum by the governor of what took place at the interview, and a subsequent conversation relating to it between him and the convict.
3. Note by Miss Hislop, Scripture reader in the General Prison, of a conversation held by her with the convict.

The managers believe that these documents contain a full account of all communications of the kind referred to in your letter.—I am, gentlemen, your most obedient servant,

J. H. BURTON.

Appendix V.

1. Copy entry in the Journal of the Governor of General Prison, relating to an interview between convict Jessie M'Lachlan and her agent, on 19th June, 1863.

Mr. Dixon, agent for 289,21 Jessie M'Lachlan at her trial, came to the prison for the purpose of seeing her relative to a conversation which, he asserted, had taken place between them; but, though his case was strongly recommended by Andrew Bannatyne, Esquire, Dean of Faculty, Glasgow, and by Dr. Barclay, Sheriff-Substitute, Perth, it was thought advisable to telegraph to the managers for permission, and a reply in the affirmative having been received, an interview took place in the governor's office between Mr. Dixon and the prisoner—the governor himself, with the surgeon, Mr. Thomson, and the matron, Miss Beattie, being present. The result was unsuccessful, as the prisoner denied that the conversation referred to had ever taken place.

2. Copy memorandum by the Governor of what took place at the interview above referred to, and at a subsequent conversation relating to it between him and the convict.

At the interview, Mr. Dixon commenced by assuring the prisoner that anything she might say would have no effect upon her sentence, and that she could not now be hanged for the offence—a fact of which she appeared to be fully aware. He then asked her if she remembered having said anything to him about laudanum, when she at once, without the least hesitation, positively denied that she had ever spoken of laudanum to him, and, moreover, that she had only once seen him after the trial, and then but a very short time. Mr. Dixon put the question relative to the laudanum to her in different forms at least three or four times, and she as repeatedly denied that she had spoken of laudanum at all; she also asserted that she was as innocent as Mr. Dixon himself; and when he then asked her if Mr. Fleming was the guilty person, she replied that "he did the act"; and again, on Mr. Dixon making the observation that Mr. Fleming's friends all declared he was innocent, she exclaimed, "How could his friends know whether he was innocent or not; they were not there." She also said it was a great hardship that she should be kept here so long, apart from her delicate child. He said, "Your child is with your relatives, and will be well taken care of; but the Flemings are ruined, every one of them, and are about to leave the country"; and he then added, "the case has lately been before Parliament." The prisoner's persistency in denial being obvious, the interview was not very protracted.

On the following morning the prisoner expressed a wish to see me, and was brought to Miss Beattie's office at the Lodge, when she began by asking what was Mr. Dixon's object in desiring to see her, and upon my giving her the evasive answer that I was not quite clear upon that point myself, she at once stated, without any questions being put to her, that "she did recollect having spoken of laudanum to Mr. Dixon," and that what she had said was, "that she knew no more of it (meaning the murder) than if he, Mr. Dixon, had placed a glass of laudanum on the table fore-anent her."

3. Note by Miss Hislop, Scripture Reader in the General Prison, of a conversation held by her with the convict Jessie M'Lachlan.

I had visited the prisoner several times in my official capacity, but had never once alluded to her crime, but had spoken to her as I do to other prisoners, as being a lost sinner in the sight of God. On this occasion she referred to the crime with which she was charged, and said her case was a very sad one. I said to her, "You will have noticed that in all my dealings with you I have carefully avoided speaking to you of your crime; but since you have mentioned it yourself I shall let you know my mind on the subject. I believe you to be the guilty person, and to me you seem to have acted as a guilty person throughout. You have been guilty of a deed for which you ought to have been hanged, as God has never repealed that law He gave, that blood should answer for blood, but by a very mysterious providence your life has been spared, and I would beseech you to make early and earnest application to Him whose blood cleanseth from all sin." She looked at me and said, "Well, Miss Hislop, I am obliged to you for your honesty." She sat silent for a minute or so after this, and then she said, "I had as little thought of it half an hour before I left my own house as you have at this moment." I said I believed it was not a premeditated thing, but that one sin had led to another till the deed was committed. She said, "I feel sometimes as if I could go through these prison walls. I often think my mind will give way." She began to tell me about going out for some spirits that night at the request of Fleming. I stopped her, and said it was no use going over it, as nothing she could say would alter my opinion about it. She immediately added, "But Fleming is not a good man." I said "I don't say he is a good man, but I believe him to be innocent of that crime."

APPENDIX VI.

A Brief Bibliography of the M'Lachlan Case.

1. The | Mysterious Murder | At Sandyford, Glasgow. | Complete Report | Corrected from the best Accounts. | Contents. | Three Illustrations, | Showing the Exterior and Interior of the House. | The First Discovery Of The Murder. | Description Of The House In Which The Murder Was Committed. | Personal History of The Murdered Woman. | The *Post-Mortem* Examination Of The Body. | The Stolen Property And The Woman Who Pawned It. | Who Is The Murderer? | Mr James Fleming's Apprehension. | The Funeral Of The Deceased. | Latest Particulars. | Glasgow: | Published For The Booksellers. | To Be Had Wholesale Of Wm. Love, 40 St. Enoch Square.

8vo. pp. 11.

Published in July, 1862. This pamphlet contains a reprint of such particulars as had appeared in the newspapers, and was issued prior to the apprehension of Mrs. M'Lachlan. There is a good wood-cut of the exterior of the house, but the two plans of the ground floor and sunk flat were

evidently prepared by one who had not had the advantage of inspecting the premises.

2. Murder most foul, as in the best, it is, but this most Foul, | Strange, and Unnatural. | Remarkable Incidents In The Life Of | Jessie M'Lauchlan, | Now under Sentence of Death, for the Murder of | Jessie M'Pherson. | Together with the Immoral Life of Old Fleming the Reputed Murderer; also the Life, | History, and Extraordinary Career of the murdered woman. | Together with every incident in that Mockery of a Trial— | With the Scandalously Partial Summing up of Lord Deas— | With every particular in connexion with this Monstrous Affair | With A Clue To The Mystery. | Which Is The Murderer? | Fleming or M'Lauchlan. | [Portraits] | 2 & 3, Shoe Lane. One Penny.

Quarto, pp. 7.

The tone of this pamphlet sufficiently appears from the above synopsis of its contents.

3. Justice: | Human And Divine. | A Sermon, | By The | Rev. William Scott, | On The | Recent Trial | For | The Sandyford Murder. | Preached, Sept. 28, 1862, and Published by Request. | Glasgow: | William Love, St. Enoch Square; | And All Booksellers. | 1862. | Price Twopence.

8vo. pp. 20.

The author of this pamphlet advocates delay in carrying out the execution of Mrs. M'Lachlan, with a view to further investigation into the circumstances of the case.

4. The Sandyford Case: | A Lecture | Delivered By The | Rev. Robert Stewart, | Of St. Mark's Church, Glasgow, | On | Sabbath, 12th October, 1862. | Glasgow: | Thomas Murray and Son. | 1862.

8vo. pp. 24.

The author deals with the necessity for the establishment of a court of criminal appeal, discusses the value of circumstantial evidence, and holds that the verdict should have been one of "Not proven."

5. The Sandyford Murder. | A Plea For Mrs. M'Lachlan. | By | A Clergyman Of The Church Of Scotland. | Glasgow: | Thomas Murray and Son. | 1862.

8vo. pp. 16.

This pamphlet contains a strong argument upon the evidence with a view to proving that old Fleming alone was guilty of the murder, and that Mrs. M'Lachlan's statement was true.

6. A Remonstrance Against Injustice: | James Fleming | Not Guilty. | By An Inhabitant of Glasgow. | [Quotation.] | Published by William Love, St. Enoch Square. | 1862.

8vo. pp. 16.

An uncompromising attack upon Mrs. M'Lachlan, written by a strong partisan of "The Old Gentleman." The arguments adduced are similar to those of the *Glasgow Herald* and its correspondents. The author was, however, unable to allude to the three days' apathy of Fleming with reference to his proved character.

7. The | Sandford Murder Case. | Trial Of Mrs. M'Lachlan | For Murder, | At Glasgow Circuit Court, September, 1862. | With Portraits. | Glasgow: | J. H. Hastings, New City Road. | 1862.

8vo. pp. 167.

Contains fictitious portraits of Mrs. M'Lachlan, James Fleming, and Lord Deas. Issued in yellow paper wrappers, price one shilling. Although bearing to be a "Revised and Corrected Report," this is merely a reprint of the contemporary report published in the *Morning Journal*. The first separate report of the Trial, published 4th October, 1862.

8. Jessie Macintosh or Maclachlan. | Return to an Address of the Honourable The House of Commons, | dated 5 May 1863;—for, | "Copy of the Proceedings at the Trial of Jessie Macintosh or Maclachlan | for Murder and Robbery at Glasgow in September last, and of the | Evidence taken at the subsequent Inquiry before Mr. Young." | (Mr. Stirling.) | Ordered, by the House of Commons, to be Printed, | 19 May 1863.

Folio, pp. 129.

Issued as Parliamentary return No. 268, price 1s. 4d. The official report of the Trial and the only separate report of the evidence taken by the Crown Commissioner. The text of the evidence adduced at the Trial is a reprint of No. 7. The addresses of counsel and the judge's charge are not included.

The following publications contain references to the case in its legal and medical aspects:—

9. The Sandyford Murder Case, and Criminal Law Administration.—*Journal of Jurisprudence*, 1862, vi. 513-518.

10. The Sandyford Case—Privilege of Crown Witnesses.—*Journal of Jurisprudence*, 1863, vii. 281-288, 434-445.

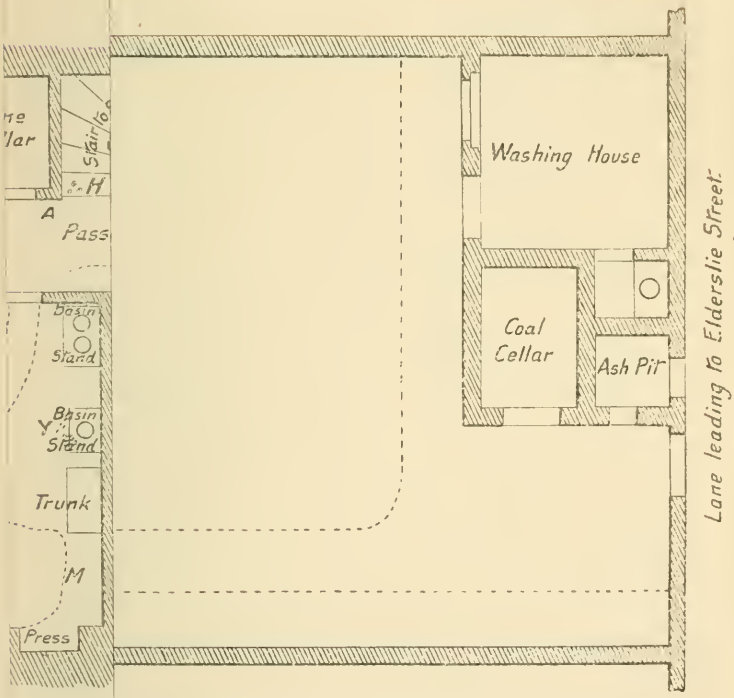
11. Extract from Lord Brougham's Letter to the Earl of Radnor; also The Glasgow Murder.—*Law Magazine and Review*, 1863, xiv. 65-66, 70-94.

12. Debate in the House of Commons, on 24th April, 1863, upon Mr. Stirling's motion for copies of the proceedings at the Trial and of the evidence taken at the subsequent Inquiry by the Crown Commissioner.—*Hansard's Parliamentary Debates*, Third Series, 1863, clxx. 681-703.

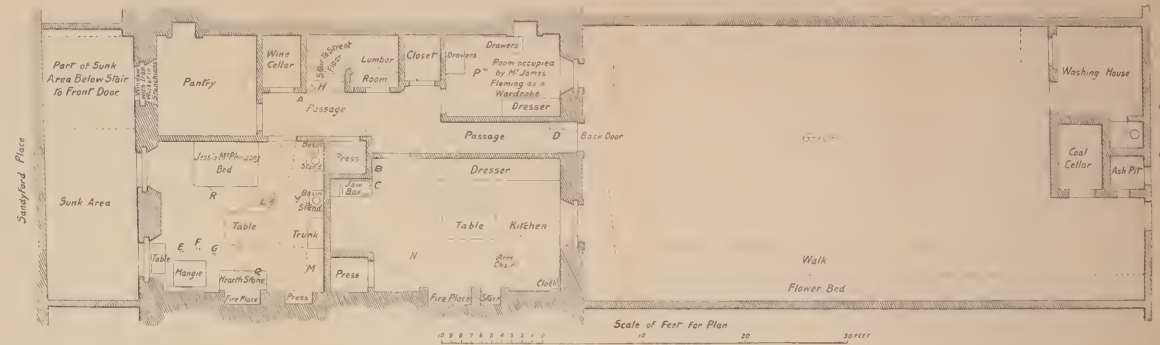
13. Debate in the House of Commons, on 26th June, 1863, upon the M'Lachlan case.—*Hansard's Parliamentary Debates*, Third Series, 1863, clxxi. 1531-1560.

14. An Account of the Medical Evidence connected with the Trial of Jessie M'Lachlan, at Glasgow Autumn Circuit, 1862. By George H. B. Macleod, M.D., F.R.C.S.E., &c.—*Glasgow Medical Journal*, 1864, xi. 50-61.

15. Report of the evidence relating to the manner in which the pannel's declarations were taken and of the objections to their admission at the trial; also Extracts from the speeches of the Lord Advocate and Mr. Mure in the Debate in the House of Commons on the case.—*Irvine's Justiciary Reports*, 1865, iv. 220-225, 587-588.



r of wall. *L*—Where the body was found.
ine showing sin-stand and floor.



Ground plan of sunk floor of 17 Sandyford Place

A Finger marks on corner of wall B Blood marks behind kitchen door C Blood marks on jaw box D Spots of blood at back door E F G Foot marks H Drops of blood L Where the body was found. M Dotted line showing margin of washed part of floor N Do do P Spot of blood Q Spurts of blood on hearthstone R Droppings of blood Y Blood on bain-stand and floor

Appendix VI.

16. The Sandyford Place Murder.—*Some Account of My Life and Writings: An Autobiography*, by the late Sir Archibald Alison, Bart., D.C.L., edited by his daughter-in-law, Lady Alison, 1883, ii. 503-511.

Various portraits of persons connected with the case were published in Glasgow in September, 1862. These include three large separate portraits:—"Mrs. M'Lachlan," from a crayon drawing, "Jessie M'Pherson, from a photograph," "'The Old Gentleman,' as he appeared in the witness box"; reproductions of the above, with the addition of Lord Deas and an emblematic device of the cleaver and the rope, upon one sheet; and a small portrait from a pen-and-ink sketch, "Mrs. M'Lachlan, as taken by an artist in the Court." The first-mentioned portrait was issued in two states—"Tinted, 6d.; Plain, 3d." The isometrical and ground plans, prepared for the Crown by Mr. Charles O'Neil, were lithographed, and published in a single sheet.

There were also published in October, 1862, a series of broadsheet caricatures:—(1) "Sandyford Sweepstakes," in which, in a race for the Crown Plate (The Gallows), Lord Deas and Old Fleming are represented as being beaten by the Milkboy; (2) Lord Deas, as "Lord Death," attended by the Devil holding the rope, addresses a jury of "Cuddies," while "Old Gentleman," with angel's wings and devil's tail, hands bags of gold to "Black Fiscall" and "Needy Sherriff" [*sic.*]; (3) Lord Deas grasps Old Fleming by the hand, while refusing to hear Mrs. M'Lachlan's plea for mercy; and (4) Mrs. M'Lachlan casts the noose round the neck of "a respectable 'Auld Gentleman,'" to the consternation of Lord Deas.

The *Weekly Free Press*, 27th September, 1862 (price threepence, 16 pp.), contains—"The late Trial Sifted in Two Fresh Editorial Leaders; Queries touching the Fleming Family; Shameful Suppression of Dan Paton's Evidence, Legally Proved; An Account of James Fleming's little daughter, Elizabeth Gray; How the Articles found in Fleming's Ashpit last Monday fell into our hands, and escaped the Police; Why was Fleming not Tried? Sundry new documents bearing upon the case generally." The *Edinburgh Weekly Review* of the same date contains—"A reprint of the four leading articles which excited so much attention in the *Daily Review*," viz.:—(1) Lord Deas; (2) Mrs. M'Lachlan; (3) Old Fleming; (4) The Petition.

Full reports of the Trial were published in the *Glasgow Herald*, the *Morning Journal*, the *Scotsman*, and the *North British Daily Mail* (18th to 22nd September, 1862), of which the latter is much the most accurate and complete. Comments upon and correspondence regarding the Trial appeared in the contemporary newspaper press of the United Kingdom. References to the case in its later stages are contained in the local journals for upwards of a year after the date of the Trial. The debates in the House of Commons upon the matter are fully reported in the *Times*, 25th April and 27th June, 1863.

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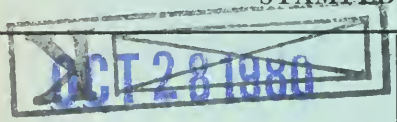

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